Supreme Court, U.S.
FILED
DEC 21 2004
OFFICE OF THE CLERK

No. 04-1189

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 2004

MICHAEL R. WOOD,

Petitioner

vs.

APPELLATE DIVISION OF THE SUPERIOR COURT OF ALAMEDA COUNTY, ET AL.

Respondent

On Petition for Writ of Certiorari
To The Supreme Court of the State of California

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the State of California have any jurisdiction (over offenses committed) after the United States took exclusive jurisdiction over "all cases" under Article I, Section 8, Clause 17 of the Constitution of the United States and the United States gave notice repeatedly on (April 16, 1943, January 3, 1944, August 16, 1944, and June 5, 1945) that it accepted "exclusive jurisdiction" as required under 40 U.S.C. §255 (October 9, 1940, 54 Stat. 1083) by filing a notice of acceptance of exclusive jurisdiction with Governor Earl Warren of the State of California where such exclusive subject matter jurisdiction is in direct conflict with holding of the United States Supreme Court case of **Adams v. United States**, 319 U.S. 312, 63 S.Ct. 1122 (May 1943) and under Article I, Section 8, clause 17 of the Constitution of the United States?

2. Does the State of California have any jurisdiction (over offenses committed) after the United States takes exclusive jurisdiction that has been expressly ceded by the state legislature under California Section 33 of the Political Code of California, and Section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 (Cal. Stat., 1939, Chap. 710, p. 2231)?

QUESTIONS PRESENTED [Cont'd]

3. Does the State of California have any jurisdiction "over offenses charged" after the United States gave notice to Governor Earl Warren of the State of California that the United States had accepted exclusive jurisdiction as required under 40 U.S.C. §255 (October 9, 1940, 54 Stat. 1083) that the United States takes exclusive jurisdiction over "all cases" under Article I, Section 8, Clause 17?

4. Does Federal Preemption Bar Prosecutions under State Laws for events that relate to the FAA as to an airworthiness issue that took place on federal land, a federal office, and with federal employees that were involved?

Parties

The parties in this case are petitioner Michael R. Wood, and FAA employees, and their attorneys.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petitions for a Writ of Certiorari to review the case below that determined that the State of California had "subject matter jurisdiction" after the United States of America served and gave notice under Article I, Section 8, Clause 17 and give notice under Title 40, Section 255 that the government had taken "exclusive jurisdiction over" land that had been acquired by the military for a military airfield.

Additionally, this case presents a question as to whether the state court lacked subject matter jurisdiction, because exclusive jurisdiction rests with the Federal Government of the United States of America (USA). Petitioner produced evidence in the form of certified documents in compliance with the holding of **Adams v. United States**, 319 U.S. 312 to establish that the United States of America gave notice under 40 U.S.C. § 255 (October 9, 1940, 54 Stat. 1083) that the United States had taken "exclusive jurisdiction" under Article I, Section 8, Clause 17 of the Constitution of the United States as to the federal enclaves locations (Oakland Army Air Field and Hayward Army Airfield) where the criminal offense occurred or were to have take place thereafter. The People of the State of California through the Alameda District Attorney's Office produced ***no evidence*** that the State of California had concurrent jurisdiction or any jurisdiction to adjudicate said criminal offense even though they had the burden. (See, **McNutt v. General Motors Acceptance Corp.**, 298 U.S. 178, 189 "The burden is on the party claiming that the court has subject matter jurisdiction.")

This court should grant a review of the decision because it concerns a matter of statewide importance whether the state claim of concurrent jurisdiction is applicable where the United States of America has acquired

"exclusive jurisdiction" by giving notice as required under 40 U.S.C. § 255 (October 9, 1940, 54 Stat. 1083) for "all cases" under Article I, Section 8, Clause 17 of the Constitution of the United States of America.

In the present case the sole question is the right of the state's to prosecute the criminal case ***without subject matter jurisdiction that has transferred to federal government under*** Article I, section 8, clause 17 of the United States Constitution provides that Congress is empowered to "exercise exclusive Legislation in all Cases whatsoever . . . over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings." The constitutional provision has been applied to invalidate taxes imposed upon property located in federal enclaves **Paul v. United States** (1963) 371 U.S. 245 [9 L.Ed.2d 292, 83 S.Ct. 426]), ***to reverse criminal convictions*** where the offense occurred on federal land"

This court should grant a review of the case decision as to whether (1) the state courts have any subject matter jurisdiction over Oakland Army Air Field and Hayward Army Air Field after giving notice, and (2) should reverse the criminal conviction where the offense occurred on federal land over which the Federal Government has exclusive jurisdiction. This review is needed to bring California courts in line with every authority that has considered the issue that Congress is empowered to "exercise exclusive Legislature in all Cases whatsoever".

OPINIONS IN THIS CASE BELOW

The judgment, decisions, and orders, of the lower courts are not reported, and appear in the Appendix hereto. The trial court denied a motion to vacate the void judgment for lack of subject matter jurisdiction on February 21, 2003

[App. 5], but granted and took judicial notice and of documents that showed that the United States took "exclusive jurisdiction" under Article I, section 8, Clause 17 and Title 40, section 255 relating to giving notice and supplying the maps that show the metes and bounds of the military land. [App. "E"] The Appellate Department of the Superior Court, affirmed the appeal without comment [App. "D"], and denied rehearing and certification. [App. "C"]

The Court of Appeal denied the Writ of Certiorari on July 22, 2004 [App. "B"], and the California Supreme Court denied the Petition for Review on September 22, 2004 [App. "A"].

All the courts have ruled based upon a summary ruling without comment in a criminal case.

STATEMENT OF JURISDICTION GROUNDS

The order of the Court of Appeal, First Appellate District, Division 3 was filed on July 22, 2004 denying the Writ of Certiorari [App. B], and the California Supreme Court denied Review on September 22, 2004. [App. "A"]

This Petition for Writ of Certiorari was filed within ninety days on or before December 21, 2004. This Court's jurisdiction is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL, FEDERAL AND STATE STATUES INVOLVED

The following constitutional, and statutes are as follows:

A. Article I, Section 8, Clause 17 of the United States Constitution [App. L]; and the Article 6, Clause 2 of the United States Constitution being the (National Supremacy Clause) of the United States Constitution. [App. "L"]

B. Title 40, Section 255 [App. "M" and "N"];

C. State of California Political Code, 1872, section

33 and 34 of the Political Code [App. "P"], and the amendment of section 34, 1939 [App. "R"];

STATEMENT OF THE CASE
BACKGROUND

This petition for writ of certiorari is base upon important federal question that conflicts with the United States Supreme Court holdings with a decision of a state trial court. The California state court has decided an important question of federal law that is contrary with the holding of this court and federal law.

A. The facts

The United States of America acquired "property and property interests" based upon acquisition, establishment, construction of a military air field, and thereafter give notice to the Honorable Earl Warren, Governor of California on April 16, 1943 [App. "H"; CT-76, Exhibit "A" & "F"], and January 3, 1944 [App. "H"; CT-76, "B" & F"] that the United States accepted and was taking "exclusive jurisdiction" under Article I, Section 8, Clause 17, and giving notice of acceptance of "exclusive jurisdiction" required under Title 40, Section 255 over the federal land, and supplied a list of military reservations in the State of California that included Oakland Army Air Field, Oakland, California a military reservation, and Hayward Army Air Field, a military reservation. [CT-76]

Thereafter, Honorable Governor Earl Warren acknowledged on April 21, 1943 and January 8, 1944 that the United States had excepted "exclusive jurisdiction" as required by giving notice under Title 40, Section 255, and

thereafter on March 14, 1944 by supplying a list of military reservations located on federal land in the State of California that had been acquired by the United States from February 1, 1940 to August 16, 1944. Oakland Army Air Field and Hayward Army Air Field was incorporated within the letters of April 16, 1943, January 3, 1944, and August 16, 1944 accepting "exclusive jurisdiction" over land for military purposes. [App. "H", CT-75, Exhibit "F" & "G"]. The list of military reservation was updated several times to account for new reservations as they constructed during World War II. (Prior to, or at the hearing the District Attorney's office ***produced no evidence*** showing the return of any jurisdiction over any military reservation to the State of California.)

On November 1, 2001 defendant Wood was on federal land in a federal office located on (Oakland Army Air Field) meeting with a federal employee Danny Pollard, Inspector for the Federal Aviation Administration (FAA). (See, Trial Evidence - Pollard police report statement App. "S", Exhibit "I")

FAA Inspector Danny Pollard claimed defendant Wood made a threat on November 1, 2001 during this meeting that took place within the federal office in the police report, and claimed that petitioner Wood made other threats that would take place on Hayward Army Air Field based upon a false police report, but related to another person.

On November 27, 2001 Alameda County District Attorney's office filed a criminal complaint based upon a false police report for a violation of section 422 of the Penal Code of California in the County of Alameda for making a criminal threat (on Oakland Army Air Field) (CT-1) on November 1, 2001 as alleged in **People v. Wood**, no. 472019.

On May 2, 2002, the defendant appeared (in pro per) and was arraigned in Department 107, by B. Daniels

Greenberg, Judge (Commissioner), where the defendant entered a plea of not guilty to the charge alleged in the complaint. Time was not waived and the defendant was released on his "own recognizance". [CT-7] During the hearing the defendant informed the court that it "lack power and authority" to proceed based upon "lack of subject matter jurisdiction" as the events took place on federal land, in a federal office with a federal employee of the Federal Aviation Administration. [CT-8]

On December 23, 2002 judgment was entered [CT-54, 55] in the Superior Court of the State of California, County of Alameda by the Honorable Steven Brick judge, and timely Notice of Appeal was filed on December 26, 2002 [CT-56].

On January 6, 2003 defendant Wood filed a Motion for an Order Vacating and Setting Aside a "Void Judgment [App. "H"; CT-64], and requested the court to take judicial notice of "certified documents" from the Federal Government and California Lands Commission records showing that exclusive jurisdiction had been transferred to the Federal Government. [App. "H"; CT-75, 76, 79] Defendant met his burden of proof and gave notice to Alameda County District Attorney's Office acting on behalf of the People that they had the burden of demonstrating that the federal government had transferred subject matter jurisdiction (or concurrent jurisdiction) back to the State of California over the offense that took place on federal land [App. "G"; CT-77]. Alameda County District Attorney's office ***filed no documentation or opposition that showed or demonstrated concurrent jurisdiction had been returned to the State of California over the offenses charged***. [App. "F"]

On February 28, 2003 the court took judicial notice of the certified documents from the United States of America and the California Lands Commission showing that the court lacked subject matter jurisdiction because exclusive

jurisdiction rests with the United States of America. Thereafter the court refuted the "The People's" only claim that the certified documents filed with the court were merely copies. The court held up the original certified documents which were in the court's possession.

Thereafter, the trial court denied petitioner Wood's Motion for Order Vacating and Setting Aside the "Void Judgment" based upon lack of subject matter jurisdiction [App. "E" and "F"; "CT-86] ***even though the pivotal facts and the law supported exclusive jurisdiction within the United States.***

Petitioner Wood ***presented evidence*** that State of California had no jurisdiction over the offenses charged ***based upon the location*** of the events as exclusive jurisdiction had been transferred to the United States to punish all criminal offenses committed in "all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." (Art. I, Sec. 8, Cl. 17, Constitution of the United States), and second, offenses committed in places over which exclusive jurisdiction has been expressly ceded by the state legislature (**United States v. Tucker**, 122 Fed. 518).

The certified documents shows that the United States gave notice as follows . . .

> "Under Section 355, Revised Statues, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083); 40 U.S.C. 255)" as required by federal law that states "[N]otice is hereby given that the United States *accepts exclusive jurisdiction* over [Oakland Army Airfield and Hayward Army Airfield] within the State of California, ..." (Emphasis added, attached and marked as Appendix "B".)

On Wednesday, March 23, 2004 appellate division judgment was pronounced by a "minute order" stating "affirmed" being a summary decision, and on Monday, April 19, 2004 denying rehearing and certification by a summary decision. [App. "H", "I", "K", and "L"; Writ of Cert., Appendix "A"]

LEGAL DISCUSSION

The Alameda Superior Court, Appellate Division is in direct conflict with the holdings of the United States Supreme Court.

Furthermore, the court is in direct conflict with it's own holding in **The People v. William M. Mouse** 203 Cal. 782 (April 1928), which the California Supreme Court held that "exclusive jurisdiction" is in the United States to punish criminal offenses that exists in at least two classes of cases, to wit: First, offenses committed in all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and, second offenses committed in places over which exclusive jurisdiction has been expressly ceded by the state legislature based upon the law of 1897. [App. "Q"]

In the present case, the Alameda Superior Court Appellate Division reached an unknown conclusion without a written opinion, and affirmed the judgment of the lower court even though the State of California have no *subject matter jurisdiction* (over offenses committed) after the United States and America took exclusive jurisdiction over "all cases" under Article I, Section 8, Clause 17 of the Constitution of the United States having complied with giving notice that it accepts "exclusive jurisdiction" as required under 40 U.S.C. section 255 (October 9, 1940, 54 Stat. 1083) by filing a notice of acceptance "exclusive

jurisdiction" with Governor Earl Warren of the State of California and further in direct conflict with holding of the United States Supreme Court case of **Adams v. United States**, 319 U.S. 312, 63 S.Ct. 1122 (May 1943). Furthermore, State of California has no subject matter jurisdiction (over offenses committed) after the United States takes exclusive jurisdiction has been expressly ceded by the state legislature being in conflict with **United States v . Tucker**, 122 Fed. 518 (1903) having no jurisdiction "over offenses charged" after the United States gave notice to Governor Earl Warren of the State of California that the United States had accepted exclusive jurisdiction by giving notice of acceptance as required under 40 U.S.C. § 255 (October 9, 1940, 54 State. 1083) that the United States takes exclusive jurisdiction over "all cases" under Article I, Section 8, Clause 17.

A. Question of Jurisdiction

It is primarily a question of jurisdiction. Article I, Section 8, Clause 17, of the Constitution of the United States specific the powers of congress.

The federal courts have "exclusive jurisdiction" under Article I, Section 8, clause 17 of Constitution of the United States over all places purchased. (**United States v. Tully**, 140 Fed. 899 (1903) "The phrase "exclusive legislation" has been held to mean "exclusive jurisdiction", and the Supreme Court in case of **James v. Dravo Contracting Co.** (1937) 302 U.S. 134, 141 has construed Clause 17's phrase "exclusive legislation to be synonymous with "exclusive jurisdiction". The United States of America gave notice to the Honorable Earl Warren, Governor of California that stated the following:

B. The Supremacy Clause of Article VI.

The court incorrectly found that the federal

government has preempted state action on matters relating to FAA. The foundation of federal preemption is set forth in the Supremacy Clause of the United States Constitution, which states:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof. . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the contrary notwithstanding."
> U.S. CONST. Art. VI, C1. 2.

The Supreme Court has identified three circumstances where federal preemption of state action is required: I) When the language a federal statute or regulation expressly preempts state action; 2) When the federal regulatory scheme is so pervasive that Congress has left no room for the states to supplement it; and 3) Where compliance with both federal and state regulations is a physical impossibility or where state law stands as an obstacle to the full purposes and objectives of Congress. Criminal statutes, are subject to federal preemption. The federal government can preempt state criminal regulations in any of the three circumstances noted above. See **Pennsylvania v. Nelson**, 350 U.S. 497, 76 S.Ct. 477, 100 L.Ed. 640 (1956).

In Nelson, the Supreme Court concluded that sedition laws enacted by the Commonwealth of Pennsylvania were preempted due to the fact that Congress had occupied the field of sedition and that the Congressional acts taken as a whole "evince a congressional plan which makes it reasonable to determine that no room for the States to supplement it." Nelson, 350 U.S. at 504. In this matter, it is clear that the federal government has occupied the field of Aviation, as the events all took place in a Federal Aviation Administration

FSDO office, and the issues relate to airworthiness of three aircrafts (N2539A, N900RJ, and N66FV), and FAA regulations. [App. "S"]
Dated: Tuesday, December 21, 2004.

CONCLUSION

The Petition for writ of Certiorari should be granted as the United States took exclusive jurisdiction by given notice in compliance with Title 40, Section 255, and also lack jurisdiction based upon federal preemption.

/s/ Michael R. Wood

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APPENDIX "A"

[Filed September 22, 2004]
Court of Appeal, First Appellate District, Division Three -
No. A106972
S126902

IN THE SUPREME COURT OF CALIFORNIA
En Banc

MICHAEL REID WOOD, Petitioner,
v.
APPELLATE DIVISION OF THE SUPERIOR COURT
ALAMEDA COUNTY, Respondent;
THE PEOPLE, Real Party in Interest.

Petition for review DENIED.
George, [Ronald M.,] C.J., was absent and did not participate.

/s/ Janice R. Brown

Baxter, Marvin R., Associate Justice
Acting Chief Justice
Chin, Ming W., Associate Justice
Kennard, Joyce L., Associate Justice
Moreno, Carlos R., Associate Justice
Supreme Court
Werdegar, Kathryn M., Associate Justice

Supreme Court
FILED
Wednesday, September 22, 2004
Frederick K. Ohirich, Clerk

APPENDIX "B"

[Filed July 22, 2004]

Case No. A106972
(Alameda County Superior,
Court Appellate Division Case No. 4345;
Limited Jurisdiction Case No. 472019)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

MICHAEL REID WOOD, Petitioner,
v.
APPELLATE DIVISION OF THE SUPERIOR COURT OF ALAMEDA COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.
BY THE COURT:

The petition for writ of certiorari is denied. (McGuiness, P.J., Corrigan, J. & Parrilli, J. Participating.)
Dated: July 22, 2004.

/s/ Mcguiness, William R.

APPENDIX "C"

[Filed and Mailed on April 20, 2004]
On March 19, 2004 matter before the
Honorable John Kraetzer, Presiding Judge
Honorable Joan Cartwright
Honorable Stephen Dombrink
Brenda Jones, Deputy Clerk
Not Reported, Reporter

APPELLATE DIVISION OF THE SUPERIOR COURT,
ALAMEDA COUNTY

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff / Respondent,
v.
MICHAEL R. WOOD,
Defendant / Appellant

Counsel appearing for Plaintiff - No Appearance
Counsel appearing for Defendant - No Appearance
Action No. 4345,
Trial Court No. 472019.

Appellant Wood's petition for rehearing is DENIED.
Appellant Wood's application for certification is DENIED.
Copies of this minute order mailed this date: April 20, 2004.

Michael Wood
S.F. Airport Post Office
660 West Field Road
P.O. Box 280867
San Francisco, CA 94128

Andy Sweet, DDA
1225 Fallon Street,
9th Floor
Oakland, CA 94612

APPENDIX "D"

[Filed and Mailed on March 23, 2004]
On March 19, 2004 matter before the
Honorable John Kraetzer, Presiding Judge
Honorable Joan Cartwright
Honorable Stephen Dombrink
Brenda Jones, Deputy Clerk
Not Reported, Reporter

APPELLATE DIVISION OF THE SUPERIOR COURT,
ALAMEDA COUNTY

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff / Respondent,
v.
MICHAEL R. WOOD,
Defendant / Appellant

Counsel appearing for Plaintiff - No Appearance
Counsel appearing for Defendant - No Appearance

Nature of Proceedings: Ruling of the Court,
Action No. 4345, Trial Court No. 472019.

In the above entitled action, oral argument having been presented, the court orders the judgment of the trial court affirmed 3-0. Remittitur to issue.

Copies of this minute order mailed this date: March 23, 2004.

Michael Wood
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660 West Field Road
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San Francisco, CA 94128

Andy Sweet, DDA
1225 Fallon Street,
9th Floor
Oakland, CA 94612

APPENDIX "E"

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA
HAYWARD HALL OF JUSTICE
CLERKS DOCKET AND MINUTES

Wood, Michael Reid Wood, Rpt. No. 01-22631,
Docket No. 472019
Charges (Counts) 1) M422 PC Convicted - Jury Trial,
Status O.R.

Proceedings

Judge: Steven A. Brick
Dep. D.A. Stacy Pettigrew
Dep. Clerk: Mathewis
Def. Atty. Jenny Andrews, Esq., and
Reporter: Ailyson C. Pelansky
Michael R. Wood, In Pro Per

Defendant: Present, In Pro Per;
Notice of Motion, Motion (for Order Vacating and Setting Aside A Void Judgment as the court lacked subject matter jurisdiction) DENIED.

Request for Judicial Notice 1, 2, and 3, GRANTED

APPENDIX "F"

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
BEFORE THE HONORABLE STEVEN A. BRICK,
JUDGE
DEPARTMENT NO. 514

Case No. 472019
THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
MICHAEL R. WOOD,
Defendant.

REPORTERS TRANSCRIPT OF PROCEEDINGS
Hayward Hall of Justice
Hayward, California

February 21, 2003

For the People: Thomas J. Orloff
District Attorney
By: Stacy Pettigrew
Deputy District Attorney

For the Defendant: Michael Reid Wood
In Pro Per

Friday, February 21, 2003, 9:00 A.M.,
Page 1, 15 - 18, 20.,

PROCEEDINGS

THE COURT: Calling the case of the People of the State of California versus Michael R. Wood, docket number 472019.

THE COURT: May I have the appearance of

counsel from the District Attorneys office and Mr. Wood, please.

MS. PETTIGREW: Good afternoon your Honor, Stacy Pettigrew for the People.

MR. WOOD: Good morning, your honor. Michael Wood, in pro per.

THE COURT: [T]here's been a motion to declare the judgment void for lack of subject matter jurisdiction, ... What is the Peoples position? We don't have any - - I don't have a written response.

MS. PETTIGREW: No, your Honor. The People are prepared to submit it.

THE COURT: And did the People have a position with respect to Mr. Wood, with respect that the Court take judicial notice in connection with his motion to have the judgment declared void?

MS. PETTIGREW: Is that judicial notice of all of the documents attached?

THE COURT: Well, he's provided - - there are two separate requests for judicial notice. One pertains to copies of the constitution, various laws and various federal cases. And the other appears to include documents from various federal archives having to do with title to the Oakland [and Hayward Army] air facility where the incident in this matter may or may not taken place.

MS. PETTIGREW: Right. I have no objection to the request for judicial notice of constitutional federal cases, that type of thing. With respect to the judicial notice of the federally archived documents, there's been - - - there's no authentication of where these documents came from. So I would object on that.

THE COURT: I will grant Mr. Wood's request for judicial notice, ... The request to have the judgment declared void will be denied.

MR. WOOD: Your Honor, I was going to make a notation that there are three requests for judicial notice documents.

THE COURT: I have two.

THE COURT: Well, two were filed on the tenth.

MR. WOOD: And there's . . . a third one on February the 11th, which actually shows the metes and bounds.

THE COURT: Okay.

MR. WOOD: Which are certified documents.

MR. WOOD: Inside, there should be a ribbon.

THE COURT: Oh, I see. Okay. All right. Once again, the request for judicial notice will be granted, with respect to February 11th as well.

MR. WOOD: The case law that I cited to the Court states that you can bring it up during [or after the notice of appeal has been filed], after the judgments been entered, or you can take it up and raise it as an issue before the appellate court.

THE COURT: In this instance, you can take it up with the court of appeal. That will be one of your issues on appeal. The request is denied.

THE COURT: Thank you both.

APPENDIX "G"

FILED
Alameda County
FEB 11 2003, Clerk

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA
WILEY W. MANUEL COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs.
MICHAEL REID WOOD;
Defendant.

Case/Docket No: 472019
Honorable Steve Brick Judge

NOTICE THAT ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE HAS BURDEN OF DEMONSTRATING THAT THE COURT HAS THE SUBJECT MATTER JURISDICTION OVER OAKLAND army AIRFIELD AND HAYWARD ARMY AIRFIELD; DECLARATION OF SERVICE BY HAND DELIVERY OF ORIGINAL AND COPIES TO CLERK OF COURT, AND DISTRICT ATTORNEY'S OFFICE.

Date: February 11, 2003
Time: 2 : 00 p. m .
Place: Department 514

TO THE HONORABLE STEVEN BRICK, JUDGE OF THE ABOVE ENTITLED COURT, AND TO THE ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE, AND TO STACIE PETTIGREW, DEPUTY DISTRICT ATTORNEY OF RECORD:

NOTICE THAT MICHAEL R. WOOD, DEFENDANT HAS MEET THE INITIAL BURDEN OF DEMONSTRATING FACTS THAT THE COURT LACKS "SUBJECT MATTER JURISDICTION".

NOTICE IS HEREBY GIVEN that Michael R. Wood, defendant has meet his burden by demonstrating facts (attached to the Motion papers, and the Request that the Court Take Judicial Notice) shows that the [United States Government] on April 16, 1943 and January 3, 1944 gave notice accepting "exclusive Jurisdiction" over certain lands acquired for military purposes, which stated as follows:

> "Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of I October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided I in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.
>
> "Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of California, title to which has hereto for vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Acceptance of the transfer of exclusive jurisdiction was made by the Honorable Earl Warren, Governor of

California as to the April 16, 1943 letter took place on April 21, 1943, and as to the January 3, 1944 letter took place on January 28, 1944.

Thereafter, Henry L. Stimson, Secretary gave additional notice on March 14, 1944 of the list of military reservations in the State of California, and listed on page 2 "Hayward Army Air Alameda Field", (formally Russell City Air Field); and on page 4 "Oakland Army County, Air Field", Alameda County that stated the following:

> "Reference is made to my letter of January 3, 1944, accepting exclusive jurisdiction over certain lands acquired by the United States for military purposes,"
>
> "[I]nclosed a list of military reservations in the State of California acquired in whole or in part by the United States from February 1, 1940, to August 16, 1944, inclusive. However, because of the large number of land acquisitions in California, it cannot be warranted to be complete and is not to be considered as limiting the scope of my letters accepting exclusive jurisdiction dated April 16, 1943, January 3, 1944, and August 16, 1944."

On August 16, 1944 gave Henry L. Stimson, Secretary of War, gave additional notice of accepting "exclusive jurisdiction" over certain I lands acquired for military purposes, which stated as follows:

> "Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 D.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired Or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted."

> "Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it I for military purposes within the State of California, title to which has hereto for vested in the United States and over which exclusive jurisdiction has not heretofore been obtained."

Acceptance of the transfer of "exclusive jurisdiction" was made by the Honorable Earl Warren, Governor of California as to the August 16, 1944 letter on August 21, 1944.

Thereafter, Henry L. Stimson, Secretary gave additional notice on September 29, 1944 a list of military reservations in the State of California, and listed on page 2 "Hayward Army Air Field", Alameda County, (formally Russell City Air Field); and on page 4 "Oakland Army Air Field", Alameda County that stated the following:

> "Reference is made to my letter of August 16, 1944, accepting exclusive jurisdiction over certain lands acquired by the United States for military purposes, ..."

> "[I]nclosed a list of military reservations in the State of California acquired in whole or in part by the United States from February 1, 1940, to August 16, 1944, inclusive. However, because of the large number of land acquisitions in California, it cannot be warranted to be complete and is not to be considered as limiting the scope of my letters accepting I exclusive jurisdiction dated April 16, 1943, January 3, 1944, and August 16, 1944."

Michael R. Wood, defendant has meet his burden of demonstrating facts that shows the judgment is "void" as a matter of law as the court lacks subject matter jurisdiction over the land were the events had taken place being Oakland

Army Air Field (a.k.a. Oakland Municipal Airport; a.k.a. North Field, Oakland Municipal Airport, and Hayward Army Air Field (a.k.a. Russell City Army Air Field; a.k.a. Hayward Municipal Airport; a.k.a. Hayward Air Terminal; a.k.a. Hayward Executive Airport) .

NOTICE TO THE DISTRICT ATTORNEY'S OFFICE IT HAS THE BURDEN TO DEMONSTRATE THAT THE COURT HAS SUBJECT MATTER JURISDICTION.

NOTICE TO DISTRICT ATTORNEY'S OFFICE ON BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA to demonstrate that jurisdiction has been returned to the State of California over Oakland Army Air Field and Hayward Army Air Field during the (time period of 1939 to 1970) by an ACT of the United States Congress being a "Public Act or a Private Act" returning jurisdiction to the State of California, or by an application of the United States and decision by the California States Lands Commission under Government Code Section 113 to accept jurisdiction, or from 1970 to the present date of the event (November 1, 2001) under Public Law 91-511, October 29, 1970, 84 Stat. 1226 (10 U.S.C. § 2683) requiring a document giving notice of "Relinquishment of legislative jurisdiction . . . . by filing with the Governor of the State [of California] . . . a notice of relinquishment to take effect upon acceptance thereof," or by an ACT of the United States Congress being a Public Act or a Private Act, or by an application and decision by the California States Lands Commission under Government Code Section 113 accepting jurisdiction.
Dated: February 11, 2003.

Michael R. Wood,
Attorney of Record in Pro Per

APPENDIX "H"

Endorsed Filed Alameda County
Jan. 06 , 2 00 3
Clerk of the Superior Court
Case No. 472019

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA WILEY W. MANUEL
COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff
v.
MICHAEL REID WOOD,
Defendant

NOTICE OF MOTION, MOTION FOR ORDER VACATING AND SETTING ASIDE "VOID" JUDGMENT, DECLARATION OF MICHAEL R. WOOD, AND MEMORANDUM OF POINTS AND AUTHORITIES, AND EXHIBITS "A" THROUGH "G".

Date: February 11, 2003
Time: 2 : 00 p. m .
Place: Department 514

TO THE ABOVE-ENTITLED COURT,
DISTRICT ATTORNEY OF ALAMEDA COUNTY,
AND TO ALL OTHER ATTORNEYS:

PLEASE TAKE NOTICE THAT ON [February 11, 2003, in Department 514 at 2:00 p.m.], or as soon thereafter as the matter may be heard, the defendant, Michael R. Wood, will move the Court to exercise its discretion and set a hearing date, or as soon thereafter as the matter may be heard, in department 104 of this court, to vacate and set aside judgment entered against defendant Michael R. Wood on December 23, 2002, and thereafter dismiss the complaint.

The motion will be made on the ground that the judgment is Avoid" as the court lacked subject matter jurisdiction having been transferred to the federal government after being given notice on April 16, 1943 and again on January 3, 1944 as required under Title 40, section 255 that the United States took exclusive jurisdiction", and thereafter was acknowledged by the Honorable Governor Earl Warren that the United States accepted exclusive jurisdiction" over the land and supply a list of military reservations in the State of California acquired by the United States from February 1, 1940 to January 3, 1944, inclusive, including Oakland Airport - North Field (a.k.a. Oakland Army Air Field), and Hayward Airport (a.k.a. Hayward Army Air Field) that was incorporated within the March 14, 1944 list of military reservations in the State of California acquired by the United States.

This motion will be based on this notice of motion, the accompanying declaration of Michael R. Wood, and the memorandum of points and authorities served and filed herewith, on the records and filed herein, and on such evidence as may be presented at the hearing of the motion.

Dated: January 6, 2003

/s/ Michael R. Wood
Michael R. Wood,
Defendant, In Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO VACATE AND SETTING ASIDE THE "VOID" JUDGMENT, AND DISMISS ACTION FOR LACK OF JURISDICTION - JURISDICTION IS VESTED EXCLUSIVELY IN FEDERAL COURTS

I. **Exception to the Rule.**

The exception to the rule that the trial court is divested of jurisdiction of the subject matter during the pendency of an appeal exists where the judgment or order is wholly "void". (**People v. Dillon** (1983) 34 Cal.3d 441, 487, fn. 36; **In re Marriage of McNaughton** (1983) 145 Cal.App.3d 845, 848-849; **Lovret v. Seyfarth** (1972) 22 Cal.App.3d 841,854. A void judgment or order may be disregarded by the parties and the trial court, and may be set aside by the trial court on its own motion, despite the pendency of an appeal. [In **re Marriage of McNaughton,** supra, at pp. 848-849; 2 Wilkin, Cal. Procedure (3d ed. 1985) Jurisdiction, p. 261.]

II. **Void Judgment.**

To render a valid judgment, a court must be lawfully organized, it must have jurisdiction over the subject matter and the parties, and it must have the power to grant the judgment [Vasquez v. Vasquez (1952) 109 Cal. App. 2d 280, 283.] Under Code of Civil Procedure, Section 473(d) states A(d) The court . . . upon a motion . . . of either party after notice to the other party, set aside any void judgment or order.

III. **Court That Lacked Subject Jurisdiction.**

A judgment rendered by a court that lacked jurisdiction over the subject matter of the action and had no power to grant is "void". [**Connelly v. Castillo** (1987) 190 Cal. App. 3d 1583, 1588; see also **Becker v. S.P.V. Construction Co.** (1980) 27 Cal. 3d 489, 493, quoting **Armstrong v. Armstrong** (1976) 15 Cal. 3d 942,950.]

The judgment lacking jurisdiction over the subject matter jurisdiction is void. [**Pennover v. Neff** (1878), 95 U.S. 714, 732-733; **Kulko v. California Superior Court**

(1978) 436 U.S. 84, 91; **Hanson v. Denckla** (1958) 357 U.S. 235, 250; **County of Ventura v. Tillet** (1982)133 App. 3d 105, 110.]

Term "lack of jurisdiction" in its fundamental sense as meaning entire absence of power to hear or determine case, an absence of authority over subject matter. [**Abelleira v. District Court of Appeal**(1941)17 Cal.2d 280, 288.]

IV. **Subiect Matter Jurisdiction is not conferred by consent or estoppel.**

The issue of subject matter jurisdiction was not raised during any pretrial proceedings, or during the trial. Lack of subject matter jurisdiction can be raised at any time, even for the first time on appeal [**DeTomaso v. Pan American World Airways, Inc.** (1987) 43 Cal. 3d 517, 520, 7 n.1; **Consolidated Theatres, Inc. v. Theatrical state Employees Union** (1968) 69 Cal. 2d 713, 721; **National Union Fire Ins. Co. v. States Prof. Law Corp.**(1991) 235 Cal. App. 3d 1718, 1724.

Jurisdiction over subject matter is conferred by law, and purported waiver of jurisdictional defects at beginning of trial is of no effect. [**People v. Leney** (1989) 213 Cal. App. 3d 265, 268, fn.2.J Subject matter jurisdiction is not conferred by consent or estoppel; thus, parties to judicial proceeding are unable, either jointly or severally, to effectively stipulate or to concede that court either has or lacks jurisdiction to act in particular matter; and lack of jurisdiction renders judgment void, subject not only to reversal on appeal, but to collateral attack. [**People v. Nauyen** (1990) 222 Cal. App. 3d 1612, 1619-1920.] Subject matter jurisdiction is subject to challenge any time during the course of action [**Boisclair v. Superior Court** (1990) 51 Cal.3d 1140, 1144, n.1, and the question of lack of subject matter jurisdiction as permitted to be raised on appeal, since parties cannot by their consent confer jurisdiction. [**Emery v. Pacific Employers Ins. Co.** (1937) 8 Cal. 2d 663, 665-666.

V. **Court without Jurisdiction.**

Code of Civil Procedure 396 states: "If an action or proceeding is commenced in a court that lacks jurisdiction of the subject matter thereof,...the action...shall ... be dismissed...,

whenever that lack of jurisdiction appears, ***must suspend all further* proceedings, *therein* ...**" (emphasis added.)

VI. **Presumption of concurrent Jurisdiction can be rebutted.**

The U.S. Supreme Court held in **Gulf Offshore Co. v. Mobil *Oil* Corp.** (1981) 453 U.S. 473, 478 that "concurrent jurisdiction can be rebutted by an explicit statutory directive." California courts lack jurisdiction over the subject matter of a cause of action when jurisdiction is vested by federal law exclusively in a federal court or agency. [**Kingston Constructors, Inc. v. Washington Metropolitan Area Transit Authority,** (1997) 14 Cal. 4th 939, 943-947.]

VII. **Federal Courts have Exclusive Federal Jurisdiction.**

"The constitutional provision has been applied to reverse criminal convictions where the offense occurred on federal land. [**People v. Mouse** (1928) 203 Cal. 782.] The California Supreme Court - In Bank held in the **People v. Mouse** case the following: "Appeal from judgment. Reversed. The record presents solely the question of state jurisdiction over the offenses charged. The offense charged . . . was committed upon the grounds and property . . . known as the National Home for Disabled Volunteer Soldiers at Sawtell, California. [1] Exclusive jurisdiction in the United States to punish criminal offenses exists in at least two classes of cases, to: First, offenses committed in "all places purchased by the consent of the legislature of the state in which the same shall be, for the erections of forts, magazine, arsenals, dock -Yards, and other needful buildings." (Article I, sec. 8, [Clause 17) Const. of the United States.) And, second, offenses committed in places over which exclusive jurisdiction has been expressly ceded by the state legislature (**United states v. Tucker,** 122 Fed. 518).

In 1939 the law was changed to clear up confusion as what the United States had taken in the form of "exclusive jurisdiction": Title 40, Section 255 states "notice must be given to the governor of the state." The holding of the United States Supreme Court clears up the notice issue that the United States took "exclusive jurisdiction" over the property in

the case **of Adams v. U. S.** (1943) 319 U. S. 312, 313; and **Benson v. United states,** 146 U. S. 325 holds the land within the metes and bounds regardless of the use comes under the control of the United States exclusive jurisdiction as "the entire tract had been legally reserved for military purposes." (146 U.S. 325, 331.) It is noted that the events "occurred on federal land" Oakland Army Air Field (a.k.a. Oakland Airport - North Field). As the federal court has "exclusive jurisdiction" under Article I, Section 8, Clause 17, of the Constitution of the United States over all places purchased as the court held in **United States v. Tully**, 140 Fed. 899 ("The phrase "exclusive legislation" has been held to mean "exclusive jurisdiction", and the United States Supreme Court has held in **James v. Dravo Contracting Co.** (1937),302 U.S. 134, 141 has construed Clause 17's phrase to mean "exclusive legislation" to be synonymous with "exclusive jurisdiction". Additionally, under Title 40, section 255 (Notice was given) that the exclusive jurisdiction was exclusive in the federal court (**Cairl v. Boeinq Co.** (1974) 39 Cal. App. 3d 137, *139-140;* **Gordon v. Reynolds** (1960)187 Cal. App.2d 472, 477-478).

Dated: January 6, 2003

Respectfully submitted,

/s/ Michael R. Wood
Michael R. Wood,
Defendant, In Pro Per

DECLARATION OF MICHAEL R. WOOD
IN SUPPORT MOTION FOR RELEASED ON
HIS "OWN RECOGNIZANCE IF AND
A STAY OF THE JUDGMENT

I, MICHAEL R. WOOD, Declare that:

I am the defendant in the above-entitled matter.

1. I declare under penalty of perjury under the laws of the United states of America and the State of California that the foregoing is true and correct. If called to testify, I could competently testify as to the following facts.

2. I am a Federal Archives Researcher, No. 005224, and I have been doing Federal Archival research since 1970 through out the United States in both "federal and state files". I have been doing research in the area of "Exclusive Federal Jurisdiction under Article I, Section 8, Clause 17, and Notice under Title 40, Section 255; and Transferring of Federal Land for Airport Purposes for "Use only, and Retaining Property Rights" by the United States of America since 1989.

3. I have reviewed documents (facts and law) relating to Oakland Army Air Field (a.k.a. Oakland Airport - North Field) at the following locations:

1. Los Angeles County Law Library,
   Los Angeles, California;
2. California State Law Library,
   Sacramento, California;
3. National Archives,
   Washington, D.C.;
4. National Archives II,
   College Park, Maryland;
5. National Archives,
   San Bruno, California;
6. National Archives,
   Laguna Niguel, California;
7. California State Lands Commission,
   Sacramento, California;
8. City of Hayward, Clerk's Office,
   City of Hayward, California.

4. The documents (Exhibit "A" through "G") are true and correct copies of documents attached to this declaration came from the above locations in paragraph 3.

5. The United States of America acquired "property interests" based upon federal military funds were expended (for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area, or for the acquisition, establishment, construction, maintenance, or operation of a military air field.)

6. Notice was given to the Honorable Earl Warren, Governor of California on April 16, 1943, and January 3, 1944 that the United States accepted and was taking "exclusive jurisdiction"

under Article I, Section 8, Article 17, and giving Notice of Acceptance" of exclusive jurisdiction" required under Title 40, Section 255 over a military reservation, and supplying a list of military reservations in the State of California that included Oakland Army Air Field and Hayward Army Air Field, a military reservation. Attached and marked as Exhibit "A", "B", "C", "D" and "E".

7. The files and records show that the United States took "exclusive jurisdiction" by giving notice on April 16, 1943 and again on January 3, 1944 to the Honorable Governor Earl Warren, and was acknowledged on April 21, 1943 and January 8, 1944 that the United States accepted "exclusive jurisdiction" as required under Title 40, Section 255, and thereafter "on March 14, 1944 supplied a list of military reservations in the state of California acquired by the United States from February 1, 1940 to January 3, 1944, inclusive," including Oakland Army Air Field and Hayward Army Air Field) that was incorporated within the letters of April 3, 1943 and January 3, 1944 accepting "exclusive jurisdiction" over land for military purposes."

8. The files of the California State Lands Commission at no time showed that the United States submitted an application to the California State Lands Commission under Title 2, Article 8, Section 2700 et al., or made an application requesting the State of California to accept retro cession of "exclusive jurisdiction" from the United States that relates to Oakland Army Air Field or Hayward Army Airfield. Attached and marked as Exhibit "F".

9. The files of the Secretary of War or the Secretary of Defense have no documents that an application was made to the California State Lands Commission under Title 2, Article 8, section 2700 et al., or made an application requesting the State of California to accept retro cession of "exclusive jurisdiction" from the United States that relates to Oakland Army Air Field or Hayward Army Airfield.

10. The files of the Secretary of War or the Secretary of Defense have no documents that shows that relinquishment of "exclusive jurisdiction" was made under federal law setting forth the procedure that Congress passed under Public Law 91-

511 (84 Stat. 1226), October 26, 1970 setting forth the procedure for relinquishment or retro cession of legislative jurisdiction to the State of California under Title 10 (Armed Forces), section 2683 that states: "[T]he Secretary concerned may, ...,relinquish to a state ..., all or part of the legislative jurisdiction under this section may be accomplished (1) by filing with the Governor . . . a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, . . . , or possession may otherwise provide." Attached and marked as Exhibit "G".

11. Based upon the above paragraphs, the Oakland Army Air Field and Hayward Army Airfield, and all documents shows that the United States acquired land for military purposes under Article I, Section 8, Clause 17.

12. Thereafter, the United acquired States "exclusive jurisdiction" on April 3, 1943 and January 3, 1944 by giving notice to the California Governor Earl Warren under Title 40, Section 255, over Oakland Army Air Field and Hayward Army Air Field. As of this date being December 29, 2002 the United States has not changed the status or returned retro cession of "exclusive jurisdiction" back to the State of California under either federal or state law.

13. Additionally, by the United States taking "exclusive jurisdiction", the United States District Court has "exclusive jurisdiction" under Title 28, section 1331 (being a federal question) over all criminal and civil cases that occurred on the Hayward Army Airfield, and any cases or judgments acquired within the state courts are "void" as a matter of law lacking subject matter jurisdiction "meaning entire absence of power to hear or determine case, and absence of authority over subject matter or parties. (See, **Abelleira v. District Court of Appeal** (1941) 17 Cal. 2d 280, 288.)

14. Judicial Act Lacking Jurisdiction: The judgment of a court wholly lacking jurisdiction over the subject matter, parties, or specific thing, is void. (See, **Pennover v. Neff** (1878), 95 U.S. 714, 732-733; **Kulko v. California Superior Court** (1978) 436 U.S. 84, 91; **Hanson v. Denckla** (1958) 357 U.S. 235, 250; **County of Ventura v. Tillet** (1982) 133 App. 3d 105, 110). And **People v. Malveaux** (1996) 50 Cal. App. 4th 1425, 1434

(Judgment void rather than voidable only if trial court lacked subject matter jurisdiction); "Lack of jurisdiction in its most fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of power to hear or determine the case, an absence of authority over the subject matter or the parties. (See **Abelleira v. District Court of Appeal** (1941) 17 Cal.2d 280, 288.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Dated: January 6, 2003.

/s/Michael R. Wood
Michael R. Wood, Defendant

APPENDIX "H" — Exhibit "A"

(Letter)
War Department
Office of the Chief of engineers
Washington

31 January 1944

Subject: Acceptance of Federal Jurisdiction
TO: UNDER SECRETARY OF WAR.

1. Pursuant to the directive of 29 October 1941 (AG 680.2, 21 Oct. 1941, MO-D), jurisdiction has been accepted by the United States over the lands acquired for military purposes in the states listed below.
2. There were originally thirty states whose statutes permitted the taking of Federal jurisdiction without the necessity of filing maps, metes and bounds description or other detailed information, and where jurisdiction could be obtained by a simplified form of letter of acceptance. Such a letter of acceptance has recently been addressed to the governors of twenty-four of these states. For various reasons jurisdiction was not accepted in the States of Arizona, Maryland, Minnesota, Mississippi, North Dakota and West Virginia. These letters accepted jurisdiction over all lands in

the States listed below acquired prior to the dates thereof and which jurisdiction had not been previously obtained. Exclusive jurisdiction was accepted in each of the states except Washington. A cession of concurrent jurisdiction was accepted as to this state. Jurisdiction was effective in each instance on the date the letter bears, which is set out in the opposite column.

State	Date of Letter
Arkansas	19 November 1943
California	3 January 1944
Colorado	16 November 1943
Connecticut	1 November 1943
Georgia	4 November 1943
Idaho	3 January 1944
Illinois	1 November 1943
Iowa	16 November 1943
Kansas	16 November 1943
Kentucky	3 January 1944
Louisiana	19 November 1944
Maine	1 November 1943
Michigan	1 November 1943
Nebraska	3 January 1944
New Jersey	29 October 1943
New Mexico	19 November 1943
North Carolina	4 November 1943
Ohio	1 November 1943
Oklahoma	19 November 1943
Oregon	18 November 1943
Rhode Island	1 November 1943
South Carolina	4 November 1943
Washington	4 January 1944
Wyoming	11 November 1943

3. The Governors of twenty of the above states have indorsed and returned duplicates of the letters, photo static copies of which are enclosed for your information and files. The duplicate copies of the letters addressed the Governors of Arkansas, New Mexico, Ohio, and Oklahoma have not been returned.

For the Chief of Engineers:

/s/ John J. O'Brien
Colonel, Corps of Engineers,
Chief, Real Estate Division.

20 Incls.
As listed w/exceptions
in par. 3.

[Letter sent to the Honorable Earl Warren,
Governor of California]

RECEIVED
WAR DEPARTMENT
SECRETARY'S OFFICE

1944 JAN 27 A.M. 9 : 11

Jan. 3, 1944

Honorable Earl Warren
Governor of California,
Sacramento, California

Dear Governor Warren:

The Laws of the State of California (Section 33 of the Political Code of California, and section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 (Cal. Stat., 1939, Chap. 710, p. 2231), permit the assumption of exclusive Federal jurisdiction over lands within that State acquired by the United States for military and certain other purposes.

Under section 356, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of

October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the state of California, title to which has heretofore vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Information is being assembled to assist you in complying with an act of the legislature of California approved May 17, 1943 (Cal. stat., 1943, Chap. 536), and will be forwarded under separate cover.

Return of the duplicate copy of this letter, with your endorsement thereon designating time of receipt of this acceptance by your office, would be appreciated.

Sincerely yours,
/S/ Henry L. Stimson
HENRY L. STIMSON
Secretary of War.

The original of this letter of acceptance was received in the office of the Governor on the 8 th of January, 1944,

/s/ EARL WARREN
Governor of the State of California

APPENDIX "H" — Exhibit "B"

THE UNDERSIGNED, ACTING IN THIS BEHALF FOR THE STATES LANDS COMMISSION, HAS HEREBY CERTIFIED, THAT THE ANNEXED IS A WHOLE, TRUE AND CORRECT COPY OF THE ORIGINAL RECORD COPY CONSISTING OF 26 PARTS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION; THAT SAID COPY HAS BEEN COMPARED BY THE UNDERSIGNED WITH THE ORIGINAL AND IS A

CORRECT TRANSCRIPT THEREFROM. IN WITNESS WHEREOF, THE UNDERSIGNED HAS EXECUTED THIS CERTIFICATE AND AFFIXED THE SEAL OF THE STATE LAND COMMISSION THIS 8 DAY OF AUGUST A.D. 1997.

/S / J. FREY

RECEIVED
WAR DEPARTMENT
SECRETARY'S OFFICE

1945 JUNE 5 A.M. 9:00
23 May 1945

Honorable Earl Warren,
Governor of California,
Sacramento, California

Dear Governor Warren:

The laws of the State of California Section 33 of the Political Code of California, and Section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 Cal. Stat., 1939, Chap. 710, p. 2231) permit the assumption of exclusive Federal jurisdiction over land within that State acquired by the United States for military and certain other proposes.

Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of California, title to which has heretofore vested in the United

States and over which exclusive jurisdiction has not heretofore been obtained.

Information is being assembled to assist you in complying with an act of the legislature of California approved May 17, 1943 (Cal. Stat., 1943, Chap. 536) and will be forwarded under separate cover.

Returned of the duplicate copy of this letter, with your indorsement thereon designating time of receipt of this acceptance by your office, would be appreciated.

Sincerely yours,
/S/ HENRY L. STIMSON
HENRY L. STIMSON
Secretary of War

The original of this letter of acceptance was received in the Office of the Governor on the 28 day of May, 1945.

/s/ EARL WARREN
Governor of the State of California

RECEIVED OCTOBER 4, 1944
WAR DEPARTMENT
Washington, D.C.

September 29, 1944

Honorable Earl Warren,
Governor of California,
Sacramento, California.

Dear Governor Warren:

Reference is made to my letter of August 16, 1944, accepting exclusive jurisdiction over certain lands acquired by the United States for military purposes, in which it was stated that information was being assembled to assist you in complying with an act of the of the Legislature of California approved May 17, 1943 (Calif. Stat.., 1943, Chap. 536).

There has now been prepared and is inclosed a list of military reservations in the State of California acquired

either in whole or in part by the United States from February 1, 1940, to August 16, 1944, inclusive. For convenience in locating and identifying these establishments, the counties in which they are located and former designation, if any, are also furnished.

It is believed that the list is complete and accurate. However, because of the large number of land acquisitions in California, it cannot be warranted to be complete and is not to be considered as limiting the scope of my letters accepting exclusive jurisdiction dated April 16, 1943, January 3, 1944, and August 16, 1944.

Sincerely yours,
S/ HENRY L. STIMSON
Henry L. Stimson
Secretary of War.

1 Incl.
List of reservations.

LIST OF MILITARY RESERVATIONS IN THE STATE OF CALIFORNIA ACQUIRED EITHER IN WHOLE OR IN PART FROM FEBRUARY 1, 1940, TO AUGUST 16, 1944, INCLUSIVE.

Designation	County	Remarks
Alameda In Transit Depot	Alameda	
[Omitted - non- relevant locations]		
Hayward Army Air Field	Alameda	Formerly Russell City Army Air Field
[Omitted - non- relevant locations]		
Oakland Army Air Field	Alameda	[North Field]
[Omitted - non- relevant locations]		
Young, Camp	Riverside	

WAR DEPARTMENT
SECRETARY'S OFFICE

August 16, 1944

Honorable Earl Warren,
Governor of California,
Sacramento, California

Dear Governor Warren:

The laws of the State of California Section 33 of the Political Code of California, and Section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 Cal. Stat., 1939, Chap. 710, p. 2231) permit the assumption of exclusive Federal jurisdiction over land within that State acquired by the United States for military and certain other proposes.

Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of California, title to which has heretofore vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Information is being assembled to assist you in complying with an act of the legislature of California approved May 17, 1943 (Cal. Stat., 1943, Chap. 536) and will be forwarded under separate cover.

Returned of the duplicate copy of this letter, with your endorsement thereon designating time of receipt of this acceptance by your office, would be appreciated.

Sincerely yours,
/S/ JOHN J. MCCLOY
JOHN J. McCLOY
Acting Secretary of War

The original of this letter was received at the Governor's Office, Sacramento, Calif., on August 21, 1944.

/s/ EARL WARREN
Governor of the State of California

WAR DEPARTMENT
Washington, D.C.

March 14, 1944

Honorable Earl Warren,
Governor of California,
Sacramento, California.

Dear Governor Warren:

Reference is made to my letter of January 3, 1944, accepting exclusive jurisdiction over certain lands acquired by the United States for military purposes, in which it was stated that information was being assembled to assist you in complying with an act of the of the Legislature of California approved May 17, 1943 (Calif. Stat.., 1943, Chap. 536). Your courtesy in indorsing and returning the duplicate copy of this letter of acceptance is appreciated.

There has now been prepared and is enclosed a list of military reservations in the State of California acquired either in whole or in part by the United States from February 1, 1940, to January 3, 1944, inclusive. For convenience in locating and identifying these establishments, the counties in which they are located and former designation, if any, are also furnished..

It is believed that the list is complete and accurate. However, because of the large number of land acquisitions in California, it cannot be warranted to be complete and is not to be considered as limiting the scope of my acceptance of Federal jurisdiction on April 16, 1943, and January 3, 1944.

Sincerely yours,
/S/ HENRY L. STIMSON
Henry L. Stimson
Secretary of War.

Incl.
List of reservations.

State Lands Commission
Received April 27, 1944
Division of State Lands
Department of Finance

LIST OF MILITARY RESERVATIONS IN THE STATE OF CALIFORNIA ACQUIRED EITHER IN WHOLE OR IN PART FROM FEBRUARY 1, 1940, TO JANUARY 3, 1944, INCLUSIVE.

Designation	County	Remarks
Anza, Camp Arlington	Riverside	Formerly Staging Area
[Omitted - non- relevant locations]		
Hayward Army Air Field	Alameda	Formerly Russell City Army Air Field
[Omitted - non- relevant locations]		
Oakland Army Air Field	Alameda	[North Field]

[Omitted - non- relevant locations]

Young, Camp Riverside

RECEIVED
WAR DEPARTMENT
SECRETARY'S OFFICE

1944 JANUARY 27 A.M. 9 : 11

JAN. 3, 1944

Honorable Earl Warren,
Governor of California,
Sacramento, California

Dear Governor Warren:

The laws of the State of California (Section 33 of the Political Code of California, and Section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 Cal. Stat., 1939, Chap. 710, p. 2231) permit the assumption of exclusive Federal jurisdiction over land within that State acquired by the United States for military and certain other proposes.

Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the state of California, title to which has heretofore vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Information is being assembled to assist you in complying with an act of the legislature of California approved

May 17, 1943 (Cal. stat., 1943, Chap. 536), and will be forwarded under separate cover.

Return of the duplicate copy of this letter, with your indorsement thereon designating time of receipt of this acceptance by your office, would be appreciated.

Sincerely yours,
/S/ HENRY L. STIMSON
HENRY L. STIMSON
Secretary of War.

The original of this letter of acceptance was received in the office of the Governor on the 8 th of January, 1944,
/s/ EARL WARREN
Governor of the State of California

WAR DEPARTMENT
SECRETARY'S OFFICE

APR. 16, 1943

Honorable Earl Warren,
Governor of California,
Sacramento, California

Dear Governor Warren:

The laws of the State of California (Section 33 of the Political Code of California, and Section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 Cal. Stat., 1939, Chap. 710, p. 2231) permit the assumption of exclusive Federal jurisdiction over land within that State acquired by the United States for military and certain other proposes.

Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the state of California, title to which has heretofore vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

It is requested that you return the enclosed copy of this letter, with an endorsement thereon over your signature stating the date of your receipt of this notice.

Sincerely yours,
/S/ HENRY L. STIMSON
HENRY L. STIMSON
Secretary of War

APPENDIX "H" — Exhibit "C"

AN ACT

To amend section 355 of the Revised Statutes, as amended, to authorize the Attorney General to approve the title to low-value land and interests in lands acquired by or on behalf of the United States subject to infirmities, and for other purposes.

Be it enacted by *the Senate and House of Representatives of the United States of America in Congress assembled,* That section 355 of the Revised Statute of the United States, as amended, is hereby amended to read as follows: -

Sec. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, customhouse, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title.

"Notwithstanding the provisicns of this or any other law, when ever the average value of any lands or interests in land to be acquired by or on behalf of the United States under a single option or contract of sale does not exceed $10 per acre (hereinafter referred to as (low-value lands'), the title may be accepted subject to such infirmities as, in the opinion of the-Attorney General, may, without jeopardizing the

interests of the United States, be left for removal by condemnation or other appropriate proceedings, if and when necessary: *Provided,* That the total value of any lands or interests to be acquired under a single option or contract of sale subject to an infirmity does not exceed $3,500. No public money shall hereafter be expended for the acquisition of such low-value lands or interests in land by or on behalf of the United States for any purpose until the written opinion of the Attorney General has been had approving the title subject, if expedient, to infirmities as herein provided. However, no money in excess of $2,500 shall be expended for the construction of buildings, works, or other improvements (except roads, trails, and fire-protection improvements) on any site, tract, or parcel of land the title to which is subject to infirmities, until the written opinion of the Attorney General in favor of the validity of the title has been had as in the case of other lands. For the purpose of this Act, values of lands and interests in land shall be determined by the consideration paid or to be paid.

"The Attorney General is hereby authorized to approve the title to easements or rights-of-way to be acquired by or on behalf of the United States, subject to such infirmities as, in his opinion, will not jeopardize the interests of the United States.

"Nothing in this Act shall be construed to limit the authority now or hereafter delegated to any officer in exercising the power of eminent domain for or on behalf of the United States, to take title to or possession of or to expend money for or upon any land or interest in land, or to expend money as security for an ultimate award in advance of final judgment in any proceedings to determine just compensation; nor shall this Act be construed to preclude any acquiring agency from expending money for the erection of any preliminary and temporary structure upon any land.

"The head or other authorized officer of any department, in dependent establishment, or agency, shall procure any evidence of title which the Attorney General may deem necessary, and the expenses of procurement, except where otherwise authorized by law or provided by contract, may be paid out of the appropriations for the acquisition of land or out

of the appropriations made for the contingencies of the acquiring department, independent establishment, or agency.

"The Attorney General may, in his discretion, base any opinion as to title required either by this Act, or any other law upon either or both of the following: Certificates of title of title companies or such evidence of title as he may deem satisfactory.

"The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority; and nothing in this section shall be construed to affect in any manner any authority which the Secretary of War, the Chief of Engineers, or the Secretary of the Interior have under the provisions of law in force on the date this section as amended takes effect with respect to the approval by them of title to land or interests in land acquired by the War Department or the Department of the Interior, as the case may be. Nor shall the foregoing provisions of this section, or the provisions of any other law, be construed to require any opinion of the Attorney General in connection with the acquisition or improvement of easements and rights-of-way for military or naval purposes; or for the acquisition or improvement of easements and rights-of-way by the Department of Agriculture for forest and other conservation purposes where the cost of any such easement of right-of-way acquired under a single instrument of conveyance and the cost of any improvement thereon does not exceed $2,500; and the Attorney General may in his discretion, waive the requirement for his opinion in connection with the acquisition or improvement of easements and rights-of-way for other purposes when, in his opinion, such waiver will not jeopardize the interests of the United States.

"Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but ***the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable,***

accept or secure. from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted."
Approved. October 9. 1940.
(Emphasis added.)

APPENDIX "H" — Exhibit "D"

OCTOBER TERM, 1 942.
Opinion of the Court.
319U.S. 312

ADAMS ET AL. *v.* UNITED STATES ET AL.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.
No. 889. Argued May 10, 1943.- Decided May 24, 1943.

1. Under the Act of October 9, 1940, the Government of the United States acquired no jurisdiction to prosecute and punish for rape committed on land acquired by the United States within a State after the date of the Act, where jurisdiction "exclusive or partial" over the area has not been accepted by the United States in the manner which the Act prescribes. P. 313.
2. The term "partial jurisdiction" as used in the Act includes concurrent jurisdiction. P. 314.

RESPONSE to questions submitted by the

Circuit Court of Appeals with respect to an appeal from a sentence imposed by the District Court in a prosecution for rape at a military camp.

Mr. Thurgood Marshall, with whom *Mr. W. Robert Ming, Jr.,* was on the brief, for Richard P. Adams et al..

Mr. Robert L. Stem, with whom *Solicitor General Fahy, Assistant Attorney General Berge,* and *Messrs. Oscar A. Provost* and *W. Marvin Smith* were on the brief, for the United States et al.

Mr. Justice Black delivered the opinion of the Court.

The Circuit Court of Appeals for the Fifth Circuit has certified to us two questions of law pursuant to 239 of the Judicial Code. The certificate shows that the three defendants were soldiers and were convicted under 18 U.S. C. 451, 457, in the federal District Court for the Western District of Louisiana, for the rape of- a civilian woman. The alleged offense occurred within: the confines of Camp Claiborne, Louisiana, a government military camp, on land to which the government had acquired title at the time of the crime. The ultimate question is whether the camp was, at time of the crime, within the federal criminal jurisdiction.

The Act of October 9, 1940, 40 U.S.C. 255, passed prior to the acquisition of the land on which Camp Claiborne is located, provides that United States agencies and authorities may accept exclusive or partial jurisdiction over lands acquired by the United States by filing a notice with the Governor of the state in which the land is located or by taking other similar appropriate action. The Act provides further: Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted. The Government had not given notice of acceptance of jurisdiction at the time of the offense. [FN 1]

The questions certified are as follows:

"1. Is the effect of the Act of Oct. 9, 1940, above quoted, to provide that, as to lands within a State thereafter acquired by the United States, no jurisdiction exists in the United States to enforce the criminal laws embraced in United

States Code Title 18, Chapter 11, and especially Section 457 relating to rape, by virtue of Section 451, Third, as amended June 11, 1940, unless and until a consent to accept jurisdiction over such lands is filed in behalf of the United States as provided in said Act?

"2. Had the District Court of the Western District of Louisiana jurisdiction, on the facts above set out, to try sentence the appellants for the offense of rape committed within the bounds of Camp Claiborne on May 10, 1942?

Since the government had not given the notice required by the 1940 Act, it clearly did not have either "exclusive or partial" jurisdiction over the camp area. The only possible reason suggested as to why the 1940 Act is inapplicable is that it does not require the government to give notice of acceptance of "concurrent jurisdiction." This suggestion rests on the assumption that the term "partial jurisdiction" as used in the Act does not include "concurrent jurisdiction."

The legislation followed our decisions in ***James v. Dravo Contracting Co.***, 302 U. S. 134; ***Mason Co. v. Tax Commission***, 302 U. S. 186; and ***Collins v. Yosemite Park Co.***, 304 U. S. 518. These cases arose from controversies concerning the relation of federal and state powers over government property and had pointed the way to practical adjustments. The bill resulted from a cooperative study by government officials, and was aimed at giving broad discretion to the various agencies in order that they might obtain only the necessary jurisdiction." [FN 2] The Act created a definite method of acceptance of jurisdiction so that all persons could know whether the government had obtained Ano jurisdiction at all, or partial jurisdiction, or exclusive jurisdiction." [FN 3]

Both the Judge Advocate General of the Army [FN 4] and the Solicitor of the Department of Agriculture [FN 5] have construed the 1940 Act as requiring that notice of acceptance be filed if the government is to obtain concurrent jurisdiction. The Department of Justice has abandoned the view of jurisdiction which prompted the institution of this proceeding; and now advises us of its view that concurrent jurisdiction can be acquired only the formal acceptance prescribed in the Act. These agencies cooperated in developing

the Act, and their views are entitled to great weight in its interpretation. Cf. ***Bowen v. Johnston***, *306* U. S. 19, 29-30. Besides, we can think of no other rational meaning for the phrase "jurisdiction, exclusive or partial" than that which the administrative construction gives it.

Since the government had not accepted jurisdiction in the manner required by the Act, the federal court had no jurisdiction of this proceeding. In this view it is immaterial that Louisiana authorized the government to take jurisdiction, since at the critical time the jurisdiction had not been taken. [FN 6]

Our answer to certified question No. 1 is Yes and to question No. 2 is No.

[FN 1] Exclusive jurisdiction over the lands on which the Camp is located was accepted for the federal government by the Secretary of War in a letter to the Governor of Louisiana, effective January 15, 1943.

[FN 2] In the words of a sponsor of the bill, the object of the act was flexibility, so "that the head of the acquiring agency or department of the Government could at any time designate what type of jurisdiction is necessary; that is, either exclusive or partial. In other words, it definitely contemplates leaving the question of extent of jurisdiction necessary to the head of the land-acquiring agency." Hearings, House Committee on Buildings and Grounds, H. R. 7293, 76th Cong., lst Sess., p. 5.

[FN 3] Ibid., 7.

[FN 4] Ops. J.A.G. 680.2.

[FN 5] Opinion No. 4311, Solicitor, Department of Agriculture.

[FN 6] Dart's Louisiana Stat. (Supp.) 2898. In view of the general applicability of the 1940 Act, it is unnecessary to consider the effect of the Weeks Forestry Act, 16 U.S. C. 480, and the Louisiana statute dealing with jurisdiction in national

forests, Darts Louisiana Stat. 3329, even thought the land involved here was originally acquired for forestry purposes.

APPENDIX "H" — Exhibit "E"

PEOPLE v. MOUSE
203 Cal. 782
[Crim. No. 3070. In Bank-April 6, 1928.)

APPEAL from a judgment of the Superior Court of Los Angeles County. Douglas M. Edmonds, Judge. Reversed.

Catherine A. McKenna and J. Irving McKenna for Appellant.

U. S. Webb, Attorney-General, John L. Flynn, Deputy Attorney-General, and John D. Richer for Respondent.

PRESTON, J.-Defendant was convicted of two felonies of the same class on verdicts simultaneously rendered. Judgment was imposed upon him for both offenses; the sentences, under section 669 of the of the Penal Code, would run consecutively. He then moved for a new trial and in arrest of the judgment, both of which motions were denied, and he has appealed from said judgments and from the orders denying his said motions.

The record presents solely the question of state jurisdiction over the offenses charged. Admittedly one of them, and a fair construction of the evidence shows that the other also was committed upon the grounds and property in Los Angeles County known as the National Home for Disabled Volunteer Soldiers at Sawtell, California. Deeds to the property were admitted in evidence naming the grantee as the "National Home for Disabled Volunteer Soldiers, a corporation formed and now existing under the laws of the United States." The nature of this institution and the manner in which it is governed, maintained and supported may be well described in the language of the case of **Sinks v. Reese**, 19 Ohio St. 306, 313, 314 [2 Am.Rep. 397]

"And first, as to the character, in law, of the

institution. It was establish under and in conformity to the provisions of the congress of the United States of March 21, 1866, entitled 'An to amend an act entitled an act to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States.'"

"The first three sections of the act [24 U.S.C.A., secs. 71, 73, 74, 77], provide for 'an establishment for the care and relief of the disabled volunteers of the United States army, to be known by the name and style of the national asylum for disabled volunteer soldiers,' with a board of managers, consisting of the president of the United States, secretary of war, chief justice of the United States, for the time being, together with nine others, no two of whom shall be residents of the same state, to be appointed by joint resolution of the two houses of congress, to have perpetual succession, with power to take, hold, and to sue and be sued in courts of law and equity; and to make by-law, rules, and regulations for carrying on the business and government of the asylum, and affix penalties thereto. The fourth section confers power on the board of managers to procure sites and to have necessary buildings erected thereon of sufficient capacity to accommodate the persons to be provided for. The fifth section appropriates various forfeited and unclaimed funds in the treasury of the United States to the support of the asylum, and authorizes the acceptance of donations for its benefit. The ninth section provides, 'that all inmates of the asylum shall be, and they are hereby, made subject to the rules and articles of war, and will be governed thereby, in the same manner as if t hey were in the army of the United States.' And the thirteenth and last section provides, 'that congress may at any time hereafter alter, amend, or repeal this act.' "

[1] Exclusive jurisdiction in the United States to punish criminal offenses exists in at least two classes of cases, to wit:' First, offenses committed in "all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." (Art. I, sec. 8, Const. of the United States.) And, second, offenses committed in places over which

exclusive jurisdiction has been expressly ceded by the state legislature (**United States Y. Tucker**, 122 Fed. 518). This subject has had consideration by the United States circuit court of appeals' in the very recent case of **Williams v. Arlington Hotel Co.**, 22 Fed. (2d) 669, 670, where in our opinion it is completely covered as follows: "We think the trial court was in error under the authority of the 'three' so-called **Leavenworth** reservation cases (**Ft. Leavenworth Railroad Co. v. Lowe**, 114 U. S. 525 [2'9 L. Ed. 264, 5 Sup. Ct. Rep. 995]; **Chicago, R. 1. d'; P. R. Co. Y. McGlinn**, 114 U. S. 542. [29 L. Ed. 270, 5 Sup. Ct. Hep. 1005], and **Benson v. United States**, 146 U. S. 325 [36 L. Ed. 991, 13 Sup. Ct. Rep. 60, see, also, Rose's U.S. Notes]). In the first of these cases, Mr. Justice Field sets out that there are three ways in which the United States can acquire or hold land within the limits of a state. The first of these ways is in accordance with article I, section 8, of the constitution, where a cession is made by the state of land for governmental purposes defined in that section; the second is by purchase or condemnation of land belonging to a private party; the third is by having public land at the time of the admission of the state into the Union. The opinion declares that the manner of acquiring the land and has controlling effect. The rule is that if the cession is made under the above provision of the constitution, the jurisdiction of the United States is exclusive; that if the land is acquired or held in any other way, the United States hold merely as a proprietor and the jurisdiction of the state is complete, except that it cannot interfere with the use of the land for governmental purposes; that, if the land is not acquired under the above constitution provision, the state may cede such jurisdiction as it sees fit to the government and that the extent of the jurisdiction of the government depends upon the terms of such cession." See, also, **People v. Hillman**, 246 N.Y. 467 [159 N.E. 400, 402].

[2] If then, the offenses here charged were committed on property of the United States being used for "forts, magazines, arsenals, dockyards" or "other needful buildings," such property was under the exclusive jurisdiction of the United States under said provision of the United States constitution above set forth. It has been expressly decided that

a soldiers' home of the type here found is such "needful building" (**Sinks v. Reese**, supra, at pp. 313, 319; see, also, **Foley v. Shriver**, 81 Va. 568; **Ft. Leavenworlh R. R. Co. v. Lowe**, 114 U. S. 525 [29 L. Ed. 264, 5 Sup. Ct. Rep. 995], and sec. 15, subd. 3, title 18, U. S. Code Annotated).

This statement, of course, presupposes the consent of the state legislature, which in California, if not previously given, was certainly conferred by the act of 1897 (Stats. 1897, p. 51) which reads: "Section 1: The state of California hereby cedes to the United States of America exclusive jurisdiction over all lands within the state now held, occupied, or reserved by the government of the United States for military purposes or defense, or which may hereafter be ceded or conveyed to the said United States for such purposes; provided, that a sufficient description by metes and bounds or map or plat of such lands be filed in the proper office of record in the county in which the same are situated; and provided further, that this state reserves the right to serve and execute on said lands all civil process, not incompatible with this cession, and such criminal process as may lawfully issue under the authority of this state against any person or persons charger with crimes committed without said lands. This act shall take effect immediately."

But under the rule above announced we are not required to rely wholly upon the contention that this institution is a "needful building," for under the California statute above quoted, exclusive jurisdiction has been ceded to the United States over all grounds being used for military purposes. If then the institution in question, or the grounds in connection therewith, is being used either as a "needful building" within the meaning of said section of the constitution of the United States, or is being used for military purposes within the meaning of said act of the state of California, jurisdiction of the United States is exclusive.

[3] We think the nature of the institution, the purpose for which and the manner in which it is maintained and the mode in which it is governed, leaves no doubt that its use is exclusively for military purposes. The fact that the deed to the property on which it stands runs to the grantee public

corporation is of no significance as the said corporation is a governmental agency brought into being for the purpose of maintaining a governmental institution (**Ohio v. Thomas**, 173 U. S. 276 [43 L. Ed. 699, 19 Sup. Ct. Rep. 453, see, also, Rose's U. S. Notes]; **Overholser v. National Home**, 68 Ohio St. 2036 [96 Am. St. Rep. 658, 62 L. R. A. 936, 67 N. E. 487]). The consent of the United States to the cession to it of exclusive jurisdiction over these lands will be presumed (**Ft. Leavenworth R. R. Co. Y. Lowe**, supra, at p. 528; **United States v. Watkins**, 22 Fed. (2d) 437, 440).

Our attention has been directed to the case of **In re Kelly**, 71 Fed. 545, a district court opinion, where, it is contended, a different holding is found. In a large measure this statement is correct, but it is also true that the legislative authority of the state of Wisconsin did not make it plain that exclusive jurisdiction had been ceded to the government, the phrase in that act being: "That jurisdiction over the several tracts of land hereinafter mentioned be and is hereby ceded to the United States. . . . " but no
words are found indicating that the cession was exclusive. This fact is relied upon in part by the court in that case, and greatly weakens the previous statements made therein which are opposed to the views here set forth. But by virtue of the express approval of the supreme court of the United States of the case of **Sinks v. Reese**, **supra**, in the case of
Ft. Leavenworth R. R. Co. v. Lowe, **supra**, and by reason of the plain facts of this case, we are satisfied to follow the holding made in other cases and not that made in the case of In re Kelly, supra.

Judgment reversed and cause remanded for a new trial as to count two and with directions to dismiss count one.

Shenk, J., Curtis, J., Langdon, J., Seawell, J., Richards, J., and Waste, C. J., concurred.

APPENDIX "H" — Exhibit "F"

California State Lands Commission
Article 7.
Procedures Under Government Code Section 126

§ 2600. Costs.
A contract to reimburse the Commission for costs associated with the cession shall be executed by the United States and the Commission prior to publication of notice of hearing. The procedure for determining the reimbursement shall be as set forth in Article 1 of this Chapter at Section 1905.

§ 2601. Notice.
Not more than 30 and not less than 15 days before the hearing, a notice of hearing shall be published one time in a newspaper of general circulation in the area in which the subject land is located. Not less than 10 days before the hearing, personal service shall be made on the clerk of the county board of supervisors and the city council if appropriate. Affidavit of publication and return of service shall be filed with the Commission before the hearing. The notice shall be entitled "Notice of Hearing to Determine Cession jurisdiction by the United States Over Land Known as "....." The notice shall contain a description of the lands and shall set forth the date, the time and place of the public hearing. The notice shall recite that the hearing shall be had pursuant to Government Code Section 126, and amendments, if any, and shall advise that in. terested parties may appear personally or through counselor by letter to present evidence on whether cession of jurisdiction is in the best interests of the State.

§ 2602. Type of Hearing.
The hearing held pursuant to said published notice may be conducted by both oral and written presentations. The hearing may be before the Commission, or a staff member designated by the Commission to conduct the hearing.

§ 2603. Procedure on Hearing Argument.

Unless otherwise ordered by the Commission, the person requesting the hearing shall present material evidence in support of his application. After such person rests, any other interested person may present any material evidence support of or in opposition to such application. The Commission may, in its discretion, limit cumulative evidence and may refuse or allow argument, and in case of allowance, may limit the same.

§ 2604. Evidence.
Oral evidence shall be taken only on oath or affirmation. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Hearsay evidence may be received upon a showing satisfactory to the Commission of the difficulty of obtaining direct evidence.

§ 2605. Decision.
After all of the evidence has been received, the Commission shall make its decision at the next regularly scheduled public meeting.

§ 2606. Extension of Jurisdiction. Where concurrent criminal jurisdiction has been granted under Government Code Section 126 for five years, any application for renewal and extension of such jurisdiction shall be considered as a new application. The above regulations governing cessions of jurisdiction shall apply in all cases.

California Lands Commission
Article 8.
Procedures Under Government Code Section 113

§ 2700. Costs.
A contract to reimburse the Commission for costs associated with the retro cession shall be executed by the United States and the Commission prior to publication of notice of hearing. The procedure for determining the reimbursement shall be as set forth in Article I of this Chapter at Section 1905.

§ 2701. Notice. Not more than thirty (30) and not less than fifteen (15) days before the hearing, a notice of hearing shall be published one time in a newspaper of general circulation in the area in which the subject land is located. Not less than ten (10) days before the hearing, personal service shall be made on the clerk of the county board of supervisors and the city council if appropriate. Affidavit of publication and return of service shall be filed with the Commission before the hearing. The notice shall be entitled "Notice of Hearing to Determine Retro cession of Jurisdiction by the United States Over Land Known as " ....." The notice shall contain a description of the land and shall set forth the date, time, and place of the public hearing. The notice shall recite that the hearing shall be had pursuant to Government Code Section 113, and amendments, if any, and shall advise that interested parties may appear personally or through counselor by letter to present evidence on whether retro cession of jurisdiction is in the best interest of the State.

§ 2702. Type of Hearing.
The hearing held pursuant to said published notice may be conducted by both oral and written presentations. The hearing may be before the Commission, or a staff member designated by the Commission to conduct the hearing..

§ 2703. Procedure on Hearing Argument.
Unless otherwise ordered by the Commission, the person requesting the hearing shall present material evidence in support of his application. After person rests, any other

interested person may present any material evidence in support of or in opposition to such application. The Commission may, in its discretion, limit cumulative evidence and may refuse. allow argument, and in case of allowance, may limit the same.

§ 2704. Evidence.

Oral evidence shall be taken only on oath or affirmation. The hearing ed not be conducted according to technical rules relating to evidence d witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evince over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall, not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Hearsay evidence may be received 'on a showing satisfactory to the Commission of the difficulty of obtaining direct evidence.

§ 2705. Decision.

After all of the evidence has been received, the Commission shall make its decision at the next regularly scheduled public meeting.

APPENDIX "H" — Exhibit "G"

Title 10, Section 2683

[Public Law 91-511 Oct. 26, 1970, 84 Stat. 1226]

Sec. 613. Chapter 159 of title 10, United States Code, is amended as follows:

"§ 2683. Relinquishment of legislative jurisdiction

"(a) Not with standing any other provision of law, the Secretary of a military department may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide. . "(b) The authority granted by this section is in addition to and not instead of that granted by any other provision of law."; and (2) by adding the following new item at the end of the analysis:

APPENDIX "I"

Filed Alameda County
February 10, 2003
Clerk of the Superior Court
Case No. 472019

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA WILEY W. MANUEL COURTHOUSE
PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
MICHAEL REID WOOD,
Defendant.

NOTICE OF REQUEST THAT THE COURT TAKE JUDICIAL NOTICE, AND REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR ORDER VACATING AND SETTING ASIDE "VOID" JUDGMENT WITH EXHIBITS "A" THROUGH "F"; DECLARATION OF SERVICE BY HAND DELIVERY OF ORIGINAL AND COPIES TO CLERK OF COURT, AND DISTRICT ATTORNEY'S.
[California Evidence Code 451(a) and (f)]

Date: February 11, 2003
Time 2:00 p.m.
Place: Department 514
Judge: Hon. Steven Brick

TO THE HONORABLE STEVEN BRICK, JUDGE OF THE ABOVE ENTITLED COURT, AND TO THE ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE, AND TO STACIE PETTIGREW, DEPUTY DISTRICT ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN THAT, on Monday, February 10, 2003, Michael R. Wood will file with the court the attached request that the court take judicial notice of the certified federal and state public documents therein stated, together with a memorandum of points and authorities and the certified documents that gave "Notice" that the United States accepts exclusive jurisdiction Aover lands acquired or which interest shall have been acquired as follows: **Exhibit "A"** (Certified copy - Letter giving notice as required under Article I, Sec. 8, Clause 17 and Title 40 U.S.C. ' 255, dated April 16, 1943), and accepted on April 21, 1943 by the California Governor Earl Warren; **Exhibit "B"** (Certified copy - Letter giving notice as required under Article I, Sec. 8, Clause 17 and Title 40 U.S.C. 255, dated January 3, 1944), and accepted on January 8, 1944 by the California Governor Earl Warren; **Exhibit "C"** (Certified copy - Letter giving notice as required under Article I, Sec. 8, Clause 17 and Title 40 U.S.C. 255, dated August 16, 1944), and accepted on August 21,1944 by the California Governor Earl Warren; **Exhibit "D"** (Certified copy - Letter giving notice as required under Article I, Sec. 8, Clause 17 and Title 40 U.S.C. 255, dated *May 23,* 1945, and accepted on May 28, 1945 by the California Governor Earl Warren; **Exhibit "E"** (Certified copy Letters to California and other states giving notice as required under Article I, Sec. 8, Clause 17 and Title 40 U.S.C. 255, as to California dated January 3,1944), and accepted on January 8,1944 by the California Governor Earl Warren; **Exhibit "F"** (Certified copy dated August 8, 1997 Letters from "The Office of the State Lands Commission" that had been received by the Honorable Earl Warren, Governor of California, Sacramento, California dated as follows: [1] May 23, 1945 - "Notice is hereby given that the United States accepts Exclusive Jurisdiction"; [2] September 29, 1944 - Reference to letter dated August 16, 1944, Notice accepting Exclusive Jurisdiction over certain land acquired by the United States showing the list of military reservations in the State of California and the pertain land on page 2 (Hayward Army Air Field, aka Hayward Municipal Airport, aka Hayward Executive Airport), and on page 4 (Oakland Army Air Field, aka Oakland Municipal Airport, aka North Field, Oakland Municipal

Airport); [3] August 16, 1944 - Notice is hereby given that the United States accepts Exclusive Jurisdiction"; [4] March 14, 1944 - Reference to letter dated January 3, 1944, Notice accepting Exclusive Jurisdiction over certain land acquired by the United States showing the list of military reservations in the State showing the listed of military reservations in the state of California and the pertain land on page 2",(Hayward Army Air Field, a.k.a. Hayward Municipal Airport, aka Hayward Executive Airport), and on page 4 (Oakland Army Air Field, aka Oakland Municipal Airport, aka North Field, Oakland Municipal Airport); [5] January 3, 1944 - "Notice is hereby given that the United states accepts Exclusive Jurisdiction"; [6] April 16, 1943 - "Notice is hereby given that the United States accepts Exclusive Jurisdiction"; [7] January 8, 1943 - "Notice is hereby given that the United States accepts Exclusive Jurisdiction".

Michael R. Wood, Defendant, under the provisions of Evidence Code Section 451(a) Judicial notice shall be taken of the following: (a) Public statutory law. . . of the United states" and 451(f) Facts . . . that cannot reasonably be the subject of dispute" being public documents showing that the United states gave notice of "that the United States accepted (exclusive) jurisdiction over lands acquired or in which any interest shall have been acquired" (See, **Pac. R. Co. V. Lipman** (1906) 148 Cal. 480; **Greenson v. Imperial Irr. Dist.,** (1932) 59 F.2d 529) required to give notice as following:

> "Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.
>
> Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of

California, title to which has hereto for vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Additionally, these public documents are located with the National Archives and Records Administration, Pacific Region (Laguna Niguel) 24000 Avila Road, 1st Floor (East), Laguna Niguel, California (**Exhibit "A" through "D");** National Archives at College Park, 8601 Adelphi Road, College Park, Maryland, 20140-6001 (**Exhibit -"E");** The Office of the States Land Commission, California State, 100 Howe Ave, Ste. 100, South, Sacramento, California, 95825-8202 (**Exhibit "F"**), and the attached certified copies.
Dated: February 6, 2003.

/s/Michael R. Wood
Michael R. Wood
Attorney of Record in Pro Per

DECLARATION OF MICHAEL R. WOOD
IN SUPPORT OF MOTION FOR
ORDER VACATING AND SETTING
ASIDE "VOID" JUDGMENT

I, MICHAEL R. WOOD, declare that:

I am the defendant in the above-entitle9,matter.

1. I declare under penalty of perjury under the laws of the United states of America and the State of California that the foregoing is true and correct. If called to testify, I could testify as to the following facts.

The attached public documents Exhibits "A" through "F" are certified copies, and are on file with the National Archives and Records Administration, and The states Lands Commission, State of California.

I declare under penalty perjury under the laws of the state of California that the foregoing is true and correct.
Dated: February 7, 2003. Michael R. Wood, Defendant

POINTS AND AUTHORITIES IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE UNDER EVIDENCE CODE SECTION 451

Under the provisions of Evidence Code Section 451(a) "Judicial notice shall be taken of the following: (a) Public statutory law. . . of the United states" and 451(f) Facts. . . that cannot reasonably be the subject of dispute" being public documents showing that the United States gave notice of "that the United States accepted (exclusive) jurisdiction over lands acquired or in which any interest shall have been acquired." (See, **Pac. R. Co. V. Lipman** (1906) 148 Cal. 480; **Greeson v. Imperial Irr. Dist.**, (1932) 59 F.2d 529).

APPENDIX "J"

FILED ALAMEDA COUNTY
FEBRUARY 10, 2003
CLERK OF SUPERIOR COURT
Case No. 472019

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA, WILEY W. MANUEL
COURTHOUSE
PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
MICHAEL REID WOOD,
Defendant.

NOTICE OF REQUEST THAT THE COURT TAKE JUDICIAL NOTICE (2nd Request), AND REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR ORDER VACATING AND SETTING ASIDE "VOID" JUDGMENT WITH EXHIBITS "A" THROUGH "I"; DECLARATION OF SERVICE BY HAND DELIVERY OF ORIGINAL AND COPIES TO CLERK OF COURT, AND DISTRICT ATTORNEY'S OFFICE.
[California Evidence Code 451(a) and (f)]

Date: February 11, 2003
Time: 2:00 p.m.
Place: Department 514
Judge: Hon. Steven Brick

TO THE HONORABLE STEVEN BRICK, JUDGE OF THE ABOVE ENTITLED COURT, AND TO THE ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE, AND TO STACIE PETTIGREW, DEPUTY DISTRICT ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN THAT, on Monday, February 10, 2003, Michael R. Wood will file with court the attached request that the court take judicial notice of the federal public documents therein stated, together with a memorandum of points and authorities as follows: **Exhibit "A"** (Constitution of the United States, dated Seventeenth day of the September in the Year of our Lord one thousand seven hundred and Eighty seven); **Exhibit "B"** (Article I, Section 8, Clause 17 of the Constitution of the United States) as follows:

"Clause 17. Congress shall have power * * * To exercise exclusive Legislation in all Cases whatsoever, . . ., and to exercise like Authority over all Place purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings." **Exhibit "C"** (Article IV, Section 3, Clause 2 of the Constitution of the United States) as follows: "Clause 2. The Congress shall have Power to . . . make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States;" **Exhibit "D"** (Article 6, Clause 2 of the Constitution of the United States) as follows: "Clause 2. This Constitution, and the Laws of the United States. . shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby;" [FN 1] **Exhibit "E"** (United States Supreme Court Case interpretation of the Act of October 9, 1940, 40 U.S.C. 255, entitled **Adam et al. v. United States et al.,** 319 U.S. 312, and the statement within other Supreme Court Cases in **James v. Dravo Contractina Co.,** 302 U.S. 134; **Mason Co. V. Tax Commission,** 302 U.S. 186; and **Collins v. Yosemite Park Co.,** 304 U.S. 186 that stated "These cases arose from controversies concerning the relation of federal and state powers over government property" (**Adam et al.,** 319 U.S. 312, 314). **Exhibit "F"** (Federal Public Law, "An Act, February 1, 1940, H.R. Public Law No. 409, Title 40, Sec. 255) as follows: "[T]he obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been . . . acquired by . . . the United States by filing a notice of such acceptance with the Governor of such State." **Exhibit "G"** (Federal Public Law, "An Act, October 9, 1940, H.R. 9736,

Public Law No. 825, Title 40, Section 255) as follows: "[T]he obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been . . . acquired by . . . the United States by filing a notice of such acceptance with the Governor of such State." Additionally, legislative history papers included show that notice to the Governor of California passed "exclusive jurisdiction" to the United States. **Exhibit "H"** (Federal Public Law, "An Act, October 26, 1970, H.R. 17604, Public Law No. 91-511, Title 10, Section 2683) as follows: "Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor . . . of the State, . . . concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, . . . may otherwise provide." Additionally, legislative history papers included show the following: [1] "Mark up legislative papers" states the "Purpose of the Legislation" as follows:

> "The purpose of this legislation is to authorize the Secretary of a military department to relinquish to a State all, or such portion of, the legislative jurisdiction previously acquired by the United States over lands or interests therein under his custody and control, as he may deem desirable. In exercising this authority he may reserve to the United States such concurrent or partial legislative jurisdiction as deemed necessary. Any relinquishment of Federal jurisdiction would be accomplished by filing a notice thereof with the Governor of the respective State, and would become effective upon acceptance by the State, and would become effective upon acceptance by the State in such manner as its laws may prescribe.
>
> There are one or two such bills presented to the Committee each year to relinquish legislative jurisdiction over various installations wherein ***the Government has exclusive jurisdiction*** in order to permit local law enforcement agencies to perform police duties." (Emphasis added.)

It is noted that prior to this legislation the only way to return legislative jurisdiction to the State of California was by a public or private bill before the United States Congress, or under an application to the California Lands Commission by the United States of America. **Exhibit "I"** (United States Supreme Court Case in this case entitled **United States of America v. Alaska** (1997) 521 U.S. **1,** 11 held the interpretation of Article I, Section 8, Clause 17 as follows:

> "[W]hen the United States exercises its power of "exclusive legislation" under the Enclave Clause, it necessarily acquires title to the property. See **James v. Dravo Contractina Co.,** 302 U.S.134, 141, 142 (1937) ("[The Enclave Clause] govern those cases where the United States acquires lands with the consent of the legislature of the State for the purposes there described") (Emphasis added); see also **Collins v. Yosemite Park & Curry Co.,** 304 U.S. 518, 527 (1938).

Michael R. Wood, Defendant, under the provisions of Evidence Code Section 451(a) "Judicial notice shall be taken of the following: 451(a)(a) Public statutory law . . . of the United States" and 451(f) Facts . . . that cannot reasonably be the subject of dispute" being public documents showing that the United States gave notice of "that the United States accepted (exclusive) jurisdiction over lands acquired or in which any interest shall have been acquired" (See, **Pac. R. Co. V. Lipman** (1906) 148 Cal. 480; **Greeson v. ImPerial Irr. Dist.,** (1932) 59 F.2d 529) required to give notice as following:

> "Under Section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1,

1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

"Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of California, title to which has hereto for vested in the United States and over which exclusive jurisdiction has not heretofore been obtained.

Additionally, these public documents are located with the National Archives and Records Administration, National Archives II at College Park, 8601 Adelphi Road, College Park, Maryland, 20740-6001, and the attached certified copies.

Dated: February 10, 2003.

/s/ Michael R. Wood
Michael R. Wood,
Attorney of Record in Pro Per

[FN 1] **Obligation of State Courts Under the Supremacy Clause.** The Constitution, laws, and treaties of the United States are as much part of the law of every State as its own local laws and constitution. Their obligation "is imperative upon the state judges, in their official and not merely in their private capacities. From the very nature of their judicial duties, they would be called upon to pronounce the law applicable to the case in judgment. They were not to decide merely according to the laws or Constitution of the State, but according to the laws and treaties of the United States - 'the supreme law of the land'." **(Martin v. Hunter's Lessee,** 1 Wheat. (14 U.S.) 304, 335 (1816). "State courts have both the power and the duty to enforce obligations arising under federal law, unless Congress gives the federal courts exclusive jurisdiction. **Claflin v. Houseman,** 93 U.S. 130 (1876); **Second Employers' Liability Cases,** 223 U.S. 1 (1912); **Testa v. Katt,** 330 U.S. 386 (1947). State courts are bound to give effect to federal law; federal law includes, of course, not only the Constitution and congressional enactments and treaties, but as well the interpretations of their meanings by the United States Supreme

Court. **(Cooper v. Aaron,** 358 U.S. 386 (1958)).

DECLARATION OF MICHAEL R. WOOD
IN SUPPORT OF MOTION FOR ORDER VACATING
AND SETTING ASIDE "VOID" JUDGMENT

I, MICHAEL R. WOOD, declare that:

I am the defendant in the above-entitled matter.

1. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. If called to testify, I could testify as to the following facts.

2 . The attached public documents Exhibits "A" through "I" are certified copies, and are on file with the National Archives and Records Administration.

I declare under penalty perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 10, 2003.

Michael R. Wood, Defendant

POINTS AND AUTHORITIES
IN SUPPORT OF REQUEST FOR
JUDICIAL NOTICE UNDER
EVIDENCE CODE SECTION 451

Under the provisions of Evidence Code Section 451(a) "Judicial notice shall be taken of the following: (a) Public statutory law. . . of the United States" and 451(f) "Facts . . that cannot reasonably be the subject of dispute" being public documents showing that the United States gave notice of "that the United States accepted (exclusive) jurisdiction over lands acquired or in which any interest shall have been acquired" (See, **Pac. R. Co. v. Lipman** (1906) 148 Cal. 480; **Greeson v. Imperial Irr. Dist.**, (1932) 59 F.2d 529) .

APPENDIX "K"

Endorsed Filed Alameda
February 11, 2003
Clerk of the Superior Court
Case No. 472019

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ALAMEDA,
WILEY W. MANUEL COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
MICHAEL R. WOOD,
Defendant.

NOTICE OF REQUEST THAT THE COURT TAKE JUDICIAL NOTICE (3rd REQUEST), AND REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR ORDER VACATING AND SETTING ASIDE "VOID" JUDGMENT WITH EXHIBITS "A" THROUGH "B"; DECLARATION OF SERVICE BY HAND DELIVERY OF ORIGINAL AND COPIES TO CLERK OF COURT, AND DISTRICT ATTORNEY'S OFFICE.
[California Evidence Code 451 (a) and (f)]

Date: February 11, 2003
Time: 2:00 p.m.
Place: Department 514
Judge: Hon. Steven Brick

TO THE HONORABLE STEVEN BRICK, JUDGE
OF THE ABOVE ENTITLED COURT,
AND TO THE ALAMEDA COUNTY DISTRICT
ATTORNEY'S OFFICE, AND TO STACIE
PETTIGREW, DEPUTY DISTRICT
ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN THAT, on Monday, February 11, 2003, Michael R. Wood will file with court the attached request that the court take judicial notice of the federal public documents therein stated, together with a memorandum of points and authorities as follows: **Exhibit** "A" (Certified - Hayward Army Air Field, Military Reservation, dated March 8, 1945, Final Project Map showing the "metes and bounds" of 712 acres of land ($2,112,582.18 - Military, and title papers with the Office of Judge Advocate General) that was acquired by direct purchase and condemnation) ; **Exhibit** "B" (Certified - Oakland Army Air Field, Military Reservation (aka Oakland Municipal Airport), dated July 9, 1945, Final Project Map showing the "metes and bounds" of 1,158 acres of land ($2,229,757.30 Military/CAA, and title papers with the Office of Judge Advocate General) that was acquired by direct purchase, condemnation, and leased lands that were acquired or any interest therein acquired."

Additionally, these public documents are located with the National Archives and Records Administration, National Archives II at College Park, 8601 Adelphi Road, College Park, Maryland, 20740-6001, or with the National Archives, Pacific Sierra Region, 1000 Commodore Drive, San Bruno, California, 94066, and the attached certified copies.
Dated: February 11, 2003.

S/ Michael R. Wood
Michael R. Wood,
Attorney of Record in Pro Per

DECLARATION OF MICHAEL R. WOOD
IN SUPPORT OF MOTION FOR
ORDER VACATING AND SETTING
ASIDE "VOID" JUDGMENT

I, MICHAEL R. WOOD, declare that:

I am the defendant in the above-entitled matter.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. If called to testify, I could testify as to the following facts.

2. The attached public documents Exhibits "A" through "B" are certified copies, and are on
or true and correct documents, file with the National Archives and Records Administration.
I declare under penalty perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 11, 2003. Michael R. Wood,
Attorney of Record in Pro Per

POINTS AND AUTHORITIES
IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE
UNDER EVIDENCE CODE SECTION 451

Under the provisions of Evidence Code Section 451(a) "Judicial notice shall be taken of the following: (a) Public statutory law. . . of the United States" and 451(f) "Facts . . that cannot reasonably be the subject of dispute" being public documents showing that the United States gave notice of "that the United States accepted (exclusive) jurisdiction over lands acquired or in which any interest shall have been acquired" (See, **Pac. R. Co. V. Lipman** (1906) 148 Cal. 480; **Greeson v. Imperial Irr. Dist.**, (1932) 59 F.2d 529) .

APPENDIX "L"

United States Constitution
Article I, Section 8, Clause 17

"Seat of Government; Exclusive Jurisdiction
Over Places Purchased"

"Clause 17. To exercise Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;"

United States Constitution
Article 6, Clause 2

"National Supremacy Clause"

"Clause 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; . . . . and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

APPENDIX "M"

[PUBLIC-No. 409-76TH CONGRESS]
[CHAPTER 18 - 3D SESSION]
[H.R. 7293]

AN ACT

To amend section 355 of the Revised Statutes, as amended, to make permissive the acquisition of legislative jurisdiction over land or interests in land acquired by the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 355 of the Revised Statutes of the United States (U. S. C., title 33, sec. 733; title 34, sec. 520; title 40, sec. 255; and title 50, sec. 175) be, and the same is hereby, amended to read as follows:

"Sec. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, custom house, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title. The district attorneys of the United States, upon the application of the Attorney General, shall furnish any assistance or information in their power in relation to the titles of the public property lying within their respective districts. And the secretaries of the departments, upon the application of the Attorney General, shall procure any additional evidence of title which he may deem necessary, and which may not be in the possession of the officers of the Government, and the expense of procuring it shall be paid out of the appropriations made for the contingencies of the departments, respectively: *Provided, however,* That in all cases of the acquisition of land or any interest therein by the United States for the purposes herein specified or for other purposes, wherein the written opinion of the Attorney General in favor of the validity of the title of such land is or may be required or authorized by law, the

Attorney General may, in his discretion, base such opinion upon a certificate of title of a title company. Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.

Approved. February 1, 1940.

APPENDIX "N"

AN ACT

To amend section 355 of the Revised Statutes, as amended to authorize the Attorney General to approve the title to low-value land and interests in lands acquired by or on behalf of the United States subject to infirmities, and for other purposes.

Be it enacted by *the Senate and House of Representatives of the United States of America in Congress assembled,* That section 355 of the Revised Status of the United States, as amended, is hereby amended to read as follows:

Sec. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, customhouse, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title.

"Notwithstanding the provisions of this or any other law, when- ever the average value of any lands or interests in land to be acquired by or on behalf of the United States under a single option or contract of sale does not exceed $10 per acre (hereinafter referred to as low-value lands), the title may be accepted subject to such infirmities as, in the opinion of the-Attorney General, may, without jeopardizing the interests of the United States, be left for removal by condemnation or other appropriate proceedings, if and when necessary: *Provided,* That the total value of any lands or interests to be acquired under a single option or contract of sale subject to an infirmity does not exceed $3,500. No public money shall hereafter be expended for the acquisition of such low-value lands or interests in land by or on behalf of the United States for any purpose until the written opinion of the Attorney General has been had approving the title subject, if expedient, to infirmities as herein provided. However, no money in excess of $2,500 shall be expended for

the construction of buildings, works, or other improvements (except roads, trails, and fire-protection improvements) on any site, tract, or parcel of land the title to which is subject to infirmities, until the written opinion of the Attorney General in favor of the validity of the title has been had as in the case of other lands. For the purpose of this Act, values of lands and interests in land shall be determined by the consideration paid or to be paid.

"The Attorney General is hereby authorized to approve the title to easements or rights-of-way to be acquired by or on behalf of the United States, subject to such infirmities as, in his opinion, will not jeopardize the interests of the United States.

"Nothing in this Act shall be construed to limit the authority now or hereafter delegated to any officer in exercising the power of eminent domain for or on behalf of the United States, to take title to or possession of or to expend money for or upon any land or interest in land, or to expend money as security for an ultimate award in advance of final judgment in any proceedings to determine just compensation; nor shall this Act be construed to preclude any acquiring agency from expending money for the erection of any preliminary and temporary structure upon any land.

The head or other authorized officer of any department, in dependent establishment, or agency, shall procure any evidence of title which the Attorney General may deem necessary, and the expenses of procurement, except where otherwise authorized by law or provided by contract, may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department, independent establishment, or agency.

"The Attorney General may, in his discretion, base any opinion as to title required either by this Act, or any other law upon either or both of the following: Certificates of title of title companies or such evidence of title as he may deem satisfactory.

"The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of

law which are applicable to the acquisition of lands or interests in land by the Tennessee. Valley Authority; and nothing in this section shall be construed to affect in any manner any authority which the Secretary of War, the Chief of Engineers, or the Secretary of the Interior have under the provisions of law in force on the date this section as amended takes effect with respect to the approval by them of title to land or interests in land acquired by the War Department or the Department of the Interior, as the case may be. Nor shall the foregoing provisions of this section, or the provisions of any other law, be construed to require any opinion of the Attorney General in connection with the acquisition or improvement of easements and rights-of-way for military or naval purposes; or for the acquisition or improvement of easements and rights-of-way by the Department of Agriculture for forest and other conservation purposes where the cost of any such easement of right-of-way acquired under a single instrument of conveyance and the cost of any improvement thereon does not exceed $2,500; and the Attorney General may in his discretion, waive the requirement for his opinion in connection with the acquisition or improvement of easements and rights-of-way for other purposes when, in his opinion, such waiver will not jeopardize the interests of the United States.

"Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but ***the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure. from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance***

with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted."
Approved. October 9. 1940.
(Emphasis added.).

APPENDIX "O"

State of California General Consent to Purchase Statue
Pursuant to U.S. Const. Art. I, Sec. 8, Clause 17
1852, Chapter 76, April 27, 1852

CHAPTER 76
AN ACT

Giving the consent of the Legislature of the State of California to the purchase by the United States, of land within this State for public purposes.

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Sec. 1. That the consent of the Legislature of California be and the same is hereby given to the purchase by the Government of the Untied States, or under the authority of the same of any tract, piece or parcel of land, from any individual or individuals, bodies politic or corporate, within the boundaries or limits of this State, for the purpose of erecting thereon Armories, Arsenals, Forts, Fortifications, Navy Yards, or Doc Yards, Magazines, Customs Houses, Light Houses, and other needful public buildings or establishments whatsoever; and all Deeds Conveyances or Title Papers for the same, shall be recorded, as in other cases, upon the Land Records of the County, in which the land so conveyed may lie; and in like manner ma be recorded a sufficient description, by metes and bounds, courses and distances, of any tract or tracts, legal divisions or sub-divisions, of any public belonging to the United States, which may be set apart by the government, for any or either of the purposes before mention, by an order, patent, or other official document or paper so describing such land. ***The consent herein and hereby given being in accordance with the seventeenth clause of the eighth section, of the first article of the Constitution of the United States,*** and with the Acts of Congress in such cases made and

provided.

Sec. 2. The lots, parcels or tracts of land so selected, together with the tenements and appurtenances, for the purposes before mentioned, shall be held exempt from taxation by the State of California.

Approved, April 27,1852. (Emphasis added.)

APPENDIX "P"

State of California Political Code — 1872
Effective Date March 12, 1872

Chapter 11, Territorial Jurisdiction of the State

Section 33. Territorial Jurisdiction;
Section 34. Legislative consent to purchase, etc., of lands by United Sates for public use; jurisdiction over.

33. The sovereignty and jurisdiction of this State extends to all places within its boundaries as established by the Constitution, but the extent of such jurisdiction over places that have been or may be ceded to, purchased, or condemned by the United States, is qualified by the terms of such cession or the laws under which such purchase or condemnation has been or may made.

34. The Legislature consents to the purchase or condemnation by the United States of any tract of land within this State for the purpose of erecting forts, magazines, arsenals, dock yards, and other needful buildings, upon the express condition that all civil process issued from the Courts of this State, and such criminal process as may issue under the authority of this Sate, against any person charged with crime may be served and executed thereon in the same mode and manner and by the same officers as if the purchase or condemnation had not been made.

APPENDIX "Q"

Exclusive Jurisdiction.
Service of Process reserved.
Chapter 56, March 2, 1897
"Land Use for Military Purposes"

An Act ceding to the United States of America Jurisdiction over all lands within this State which have been or may hereafter be acquired by the United States for military purposes.

[Approved March 2, 1897]

The people of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The State of California hereby cedes to the United States of America exclusive jurisdiction over all lands within this State now held, occupied, or reserved by the Government of the United States for military purposes or defense, or which may hereafter be ceded or conveyed to said United States for such purposes; provided, that a sufficient description by metes and bounds and a map or plat of such lands be filed in the proper office of record in the county in which the lands are situated; and provided further, that this state reserves the right to serve and execute on said lands all civil process, incompatible with this cession, and such criminal process may lawfully issue under the authority of this State against any person or persons charged with crimes committed within said lands.

SECTION 2. This Act shall take effect immediately.

APPENDIX "R"

CHAPTER 710

An act to amend section 34 of the Political Code, relating to the consent of the Legislature to the purchase or condemnation of land by the United States.

[Approved by Governor July 5, 1939.
Filed with Secretary of State July 11, 1939]

The people of the State of California do enact as follows:

SECTION 1. Section "34 of the Political Code is hereby amended to read as follows:

34. The Legislature consents to the purchase or condemnation by the United States of any tract of land within this State for the purpose of erecting forts, magazines, arsenals, dockyards, and other needful buildings, upon the express condition that all civil process issued from the courts of this State, and such criminal process as may issue under the authority of this State, against any person charged with Crime, may be served and executed thereon in the same mode and manner and by the same officers as if the purchase or condemnation had not been made and upon the further express condition that the State reserves its entire power of taxation with respect to such tracts of land and may levy and collect all taxes now or hereafter imposed in the same manner and to the same extent as if this consent had not been granted.

The authority to serve civil and criminal process and power to tax here in above reserved to the State in the case of the purchase or condemnation by the United States of any tract of land within this State shall, any law to the contrary notwithstanding, also be reserved to the State with respect to any tract of land over which any jurisdiction is ceded or granted by the State to the United States under any law of this State now in effect or which may hereafter be adopted, the authority and power herein reserved by the State to be

exercised in the same manner and to the same extent as if such jurisdiction had not been ceded or granted by the State to the United States.

APPENDIX "S"

TRIAL EXHIBITS

Plaintiffs Exhibit "1"

Photos showing the location of the event on November 1, 2001 being the outside of the Oakland Army Air Field, Hangar 5, and the inside of the FAA Flight Standards Office located on North Field, Hangar 5, Oakland, California.

Defendants Exhibit "A"

APPLICATION FOR AIRWORTHINESS
CERTIFICATE REQUEST FOR REPLACEMENT
(OR DUPLICATE) CERTIFICATE
AIRWORTHINESS CERTIFICATE ISSUED
ON OCTOBER 30, 1978

Registration Mark: N2539A
Aircraft Builder: Piper Aircraft
Aircraft Model Designation: PA 38-112
Year of Manufacture: 1978
Aircraft Serial No.: 38-78A0743
Engine: Lycoming
Engine Model Designation: 0-235-L2C
Number Engines: One
Propeller Builder: Sensenich
Propeller Model: 72CK-0-56

Standard Airworthiness Certificate: Normal and Utility

Register Owner: Michael R. Wood,
P.O. Box 842,
McLean, Va. 22101-0842

Aircraft Type Certificate: A1850

Date of Application: November 1, 2001,

Michael R. Wood, owner,

/s/ Michael R. Wood
Michael R. Wood

Defendants Exhibit "B"

APPLICATION FOR AIRWORTHINESS
CERTIFICATE REQUEST FOR REPLACEMENT
(OR DUPLICATE) CERTIFICATE
AIRWORTHINESS CERTIFICATE ISSUED
ON FEBRUARY 8, 1967

Registration Mark: N66FV
Aircraft Builder: Aero Commander Aircraft
Aircraft Model Designation: 680V
Year of Manufacture: 1967
Aircraft Serial No.: 1676-59
Engine: Garret Air Research
Engine Model Designation: TPE331-43A
Number Engines: Two (2)
Propeller Builder: Hamilton Standard
Propeller Model: 33LF325/(3) 1033A-0

Standard Airworthiness Certificate: Normal
Register Owner: Michael R. Wood,
P.O. Box 842,
McLean, Va. 22101-0842

Aircraft Type Certificate: SA1995W

Date of Application: November 1, 2001,

Michael R. Wood, owner,
/s/ Michael R. Wood
Michael R. Wood

Defendants Exhibit "C"

APPLICATION FOR AIRWORTHINESS
CERTIFICATE REQUEST FOR REPLACEMENT
(OR DUPLICATE) CERTIFICATE
AIRWORTHINESS CERTIFICATE ISSUED
ON SEPTEMBER 4, 1970

Registration Mark: N900RJ
Aircraft Builder: Aero Commander Aircraft
Aircraft Model Designation: 680V (CAR 3)
Year of Manufacture: 1965
Aircraft Serial No.: 1572-27
Engine: Garret Air Research
Engine Model Designation: TPE331-43BL
Number Engines: Two (2)
Propeller Builder: Hamilton Standard
Propeller Model: 33LF325/(3) 1033A-0

Standard Airworthiness Certificate: Normal
Register Owner: Michael R. Wood,
P.O. Box 842,
McLean, Va. 22101-0842
Aircraft Type Certificate: 2A4 Rev. 15
Date of Application: November 1, 2001,
Michael R. Wood, owner,

/s/ Michael R. Wood
Michael R. Wood

Defendant Exhibit "D"

E-mail Two more witnesses, etc.
to FAA, and DOT OIG office.

Defendant Exhibit "E-1"

FAA Order 8130.2D
Change 1 Incorporated

AIRWORTHINESS CERTIFICATION
OF AIRCRAFT AND RELATED PRODUCTS

FAA Symbol

September 30, 1999
Department of Transportation
Federal Aviation Administration

* * * * * * * * * * *

26. REPLACEMENT, EXCHANGE, OR AMENDMENT OF AIRWORTHINESS CERTIFICATES.

a. Replacement.

(1) The FAA may issue a replacement airworthiness certificate when a certificate is declared lost, has been mutilated, or is no longer legible. The replacement airworthiness certificate shall carry the original issued date of the certificate being replaced, preceded by a capital "R" in the date block of the certificate. Additionally, replacement certificates will be issued when the aircraft registration number has been changed. In this case a new application for airworthiness certification is not required.

(2) Request for a replacement certificate will be made by a certified statement from the registered owner or certificate operator to the application certification office. The certifying statement should include the registration (N) number, serial number, and make/model of the aircraft. Replacement of airworthiness certificates shall not be accomplished by verbal agreement with the assigned inspectors or through procedures contained in air carrier's manuals that allow the continued operation of an aircraft without an airworthiness certificate. Such actions are contrary to 91.03(b), 121.153(a)(1), and 14

CFR part 135, Operating Requirements: Commuter and On Demand Operations (part 135), 135.25(a).

(3) A replacement airworthiness certificate may be issued without supporting documentation from AFS-750 if the date of issuance and the airworthiness classification and/or category of the lost or mutilated certificate can be positively established from aircraft records, or from the remains of the certificate. If there is insufficient data upon which to base issuance of the replacement certificate, the FAA inspector will request copies of the appropriate data (such as the application form or previously issued airworthiness certificate) from AFS-750.

(4) Before issuing a replacement certificate, the FAA shall review the aircraft records, and if necessary, inspect the aircraft to ensure the applicant's request is justified, and the aircraft is eligible for the airworthiness certificate requested.

(5) A copy of the replacement certificate must be forwarded to AFS-750.

Defendant's Exhibit "E-2"

FAA Order — 8130.2D

Complete FAA Order - 254 pages

Airworthiness Certification of Aircraft and Related Products
September 30, 1999

Defendant Exhibit "F"

Letter dated December 12, 2001 from John Rogers Aviation Consulting person to Mr. Norman Y Mineta, Secretary of the United States Department of Transportation and Ms. Jane Garvey, Administrator, Federal Aviation Administration relating to the FAA Order 8130.2D, Section 2, Airworthiness Certificates and Certifications, Item 26. Replacement, Exchange, or Amendment of Airworthiness Certificates.

Defendant Exhibit "G"

Response to Letter dated December 12, 2001 from Nicholas A. Sabatini, Associate Administrator for Regulation and Certification relating to the FAA Order 8130.2D, Section 2, Airworthiness Certificates and Certifications, Item 26. Replacement, Exchange, or Amendment of Airworthiness Certificates.

Defendant Exhibit "H"

Record of Visit by Danny Pollard, FAA Inspector, Oakland FSDO Office not placed into evidence.

Defendant Exhibit "I"

Alameda County Sherriff's Department Statement Form by Danny Pollard, FAA Inspector, Oakland FSDO Office not placed into evidence.

Defendant's Exhibit "J"

United States of America, Department of Transportation, Federal Aviation Administration, Statement of Conformity blank form, FAA Form 8130-9.